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Government of Bombay
Legal Department

The Bombay Code

Volume II

PART II

Containing

The Acts passed by the Bombay Legislative Council from 1922 to 1936 and by the Bombay Legislature from 1937 to 1949; the Regulations made by the Governor of Bombay under sub-section (*2*) of section 92 of the Government of India Act, 1935; and a Chronological Table of Acts with an Index and a General Index.

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THE COTTON GINNING AND PRESSING FACTORIES (BOMBAY AMENDMENT) ACT, 1936.

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BOMBAY ACT No. IV OF 1936.[1]

[THE COTTON GINNING AND PRESSING FACTORIES (BOMBAY AMENDMENT) ACT, 1936.]

[16th March 1936]

Adapted and modified by the Adaptation of Indian Laws Order in Council.
" " " by the Adaptation of Laws Order, 1950.

An Act to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Presidency of Bombay.

WHEREAS it is expedient to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Presidency of Bombay for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80A and the previous sanction of the Governor required under section 80C of the Government of India Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

XII of 1925.

5 & 6 Geo.V, c. 61.

Short title, extent and commencement.

1. (*1*) This Act may be called the Cotton Ginning and Pressing Factories (Bombay Amendment) Act, 1936.

(*2*) [2]* * * * * The [3][4][State] Government] may by notification in the [5][*Official Gazette*] extend the provisions of this Act to [6][any area of the State of Bombay] with effect from such date as the [3][4][State] Government] may appoint in the said notification.

XII of 1925.

Amendment of section 2 of Act XII of 1925.

2. In section 2 of the Cotton Ginning and Pressing Factories Act, 1925, hereinafter called the said Act,—

(*1*) after the word, comma and dash "context,—" the following shall be inserted, namely :—

"(*aa*) 'admixture of cotton' means a prescribed mixture of different varieties of cotton;" and

(*2*) after clause (*f*) the following clause shall be inserted, namely :—

"(*ff*) 'licence' means a licence granted under section 2A."

(*3*) after clause (*h*) the following clause shall be inserted, namely :—

"(*i*) 'Season' means such period as may from time to time be prescribed."

Insertion of section 2A in Act XII of 1925.

3. After section 2 of the said Act, the following section shall be inserted, namely :—

Licence for working cotton ginning factory or cotton pressing factory.

"2A. (*1*) No cotton ginning factory or cotton pressing factory shall be worked without a licence granted to the owner thereof by such authority, in such form, subject to such conditions and on payment of such fee, as may be prescribed.

(*2*) (*a*) A licence for which the prescribed fee has been paid shall be liable to be refused only on the ground that the owner or person in charge of a cotton ginning or cotton pressing factory in respect of which a licence is applied for has been convicted of an offence punishable under this Act.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 335-336; for Report of the Select Committee, *see Bombay Government Gazette*, 1936, Part V, pp. 24-27; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLIV.

[2] The portion beginning with the words "This Act shall extend" and ending with the words "*Official Gazette* appoint" was omitted by the Adaptation of Laws Order, 1950.

[3] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] The words "*Official Gazette*" were substituted for the words "*local official Gazette*" by the Adaptation of Indian Laws Order in Council.

[6] These words were substituted for the words "any other area" by the Adaptation of Laws Order, 1950.

(*b*) A licence shall be liable to be suspended, withdrawn or cancelled only on the ground that the owner or person in charge of the cotton ginning or cotton pressing factory in respect of which a licence was granted has been convicted of an offence punishable under this Act :

Provided that no licence shall be suspended, withdrawn or cancelled under this clause until after the expiration of the season in which the said owner or person has been so convicted.

(*3*) If any person works a cotton ginning or cotton pressing factory in respect of which a licence has not been granted or has been suspended, withdrawn or cancelled, such person shall be punishable :—

(*a*) on a first conviction, with fine which may extend to five hundred rupees and, if the offence has continued for more than one day, with an additional fine which may extend to one hundred rupees for every day subsequent to the first day during which the offence has continued ; and

(*b*) on every subsequent conviction, with fine which may extend to fifteen hundred rupees and, if the offence has continued for more than one day, with an additional fine which may extend to two hundred rupees for every day subsequent to the first day during which the offence has continued."

Amendment of section 3 of Act XII of 1925.

4. In sub-section (*2*) of section 3 of the said Act :—

(*1*) the word "and" shall be omitted, and

(*2*) the following words shall be added at the end :—

"and the prescribed particulars as supplied by such person of the cotton ginning factory where it has been ginned."

Insertion of new sections 3A, 3B and 3C in Act XII of 1925.

5. After section 3 of the said Act, the following new sections shall be inserted, namely :—

Prohibition against watering etc. of cotton.

"3A. (*1*) The [1][[2][State] Government] may by notification in the [3][*Official Gazette*] declare that in any area specified in such notification no cotton which is ginned or pressed in a cotton ginning or cotton pressing factory shall contain any admixture of cotton.

(*2*) Any owner of a cotton ginning or cotton pressing factory or any person in charge of such factory—

(*a*) who knowing or having reason to believe that any cotton is watered or contains seed in excess of the prescribed proportion or contains any foreign substance, gins or presses or allows such cotton to be ginned or pressed in such factory, or

(*b*) who in any area specified in the notification under sub-section (*1*) gins or presses or allows to be ginned or pressed any cotton which he knows or has reason to believe to contain an admixture of cotton,

shall, on conviction, be punishable with fine which may extend to five thousand rupees.

(*3*) Any owner of cotton who knowingly waters any cotton which is ginned and which is being, or is intended to be, pressed in a cotton pressing factory, or mixes seed or foreign substance with such cotton, or in any area specified in sub-section (*1*) makes any admixture of cotton, or abets or knowingly allows or connives at any such watering, mixing or admixture of cotton, shall, on conviction, be punishable with fine which may extend to five thousand rupees.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*local official Gazette*" by the Adaptation of Indian Laws Order in Council.

Explanation.—For the purposes of this section, cotton shall not be deemed to be watered, unless such cotton contains moisture in excess of the normal quantity. The normal quantity of moisture in any given quantity of cotton is the amount of moisture that such cotton is reasonably expected to have, regard being had to the place or places at or to which, and the time or times of the year in which, such cotton has been picked, collected, stored, conveyed, left, ginned or pressed. A certificate given by the prescribed authority as to the normal quantity of moisture that a given quantity of such cotton should have and the quantity of moisture that it possesses shall be evidence of such matters, until the contrary is proved; and if the latter quantity exceeds the former it shall be evidence, until the contrary is proved, that the cotton is watered.

Examination of cotton, packages bales.

3B. (*1*) The [1][Provincial Government] or any gazetted officer authorised by it in this behalf may on its or his own motion or on receipt of a complaint that there has been a contravention of the provisions of section 3A in respect of any cotton, package or of any bale and in the case of a complaint, on payment of the prescribed fee by the complainant, cause such cotton or the contents of such package or bale to be examined by the prescribed person or body.

(*2*) A certificate given by such person after examination of the contents of any bale under sub-section (*1*) shall be admissible in evidence and be presumptive proof of the facts mentioned therein until the contrary is proved.

Entry and inspection.

3C. (*1*) The [1][Provincial Government] may authorise any gazetted officer to enter into and inspect, at any reasonable time, any cotton ginning or cotton pressing factory for the purpose of ascertaining whether there is any contravention therein of any of the provisions of this Act or of any rule made thereunder or of any of the conditions subject to which a licence has been granted in respect of such factory and to seize all things in respect of which an offence punishable under this Act appears to have been committed.

(*2*) The owner or the person in charge of every cotton ginning or cotton pressing factory shall give every reasonable assistance to the inspecting officer in the performance of his duties under sub-section (*1*).

(*3*) The owner or the person in charge of such factory shall, in every instance, be permitted to attend during the inspection and the things seized during such inspection shall be sealed in the prescribed manner."

Amendment of section 5 of Act XII of 1925.

6. For section 5 of the said Act, the following section shall be substituted, namely :—

Returns.

"5. (*1*) The owner of every cotton ginning factory shall submit to the prescribed authority, within such time and in such form, as may be prescribed, monthly returns showing the quantity of cotton ginned in the factory during the preceding month and from the commencement of the season to the end of that month.

(*2*) The [1][Provincial Government] shall compile from the monthly returns submitted under sub-section (*1*), and shall publish in such manner as the [2][Central Government] may direct, a statement showing the total quantity of cotton ginned in the province during the month and from the commencement of the season to the end of the month to which the returns relate :

Provided that the quantity of cotton ginned in an individual factory shall not be published.

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "Central Government" were substituted for the words "Governor General in Council", *ibid.*

(*3*) The owner of every cotton pressing factory shall submit to the prescribed authority, within such time and in such form, as may be prescribed, weekly returns showing the total number of bales of cotton pressed during the preceding week and from the commencement of the season to the end of that week, and the approximate average net weight of the bales pressed in that week.

(*4*) The [1][Provincial Government] shall compile from the weekly returns submitted under sub-section (*3*), and shall publish in such manner as the [2][Central Government] may direct, a statement showing the total number of bales pressed in the province during the week and from the commencement of the season to the end of the week to which the returns relate :

Provided that the number of bales pressed in any individual factory shall not be published.

(*5*) If default is made in submitting any return as required by sub-section (*1*) or sub-section (*3*), the owner of the factory shall, on conviction, be punishable with fine which may extend to fifty rupees.

(*6*) Where the owner of a cotton ginning or cotton pressing factory has notified to the prescribed authority that the work of ginning cotton or pressing bales in that factory has been suspended, it shall not be necessary for the owner to submit returns under sub-section (*1*) or sub-section (*3*) until such work has been resumed."

Amendment of section 6 of Act XII of 1925.

7. In section 6 of the said Act, after the words "other than" the words and figures "the standard weights and measures, weighing and measuring instruments authorised under the Bombay Weights and Measures Act, 1932, in districts or areas in which Parts II, III, V and VI of that Act are in force or elsewhere other than" shall be inserted. Bom. XV of 1932.

Amendment of section 7 of Act XII of 1925.

8. In sub-section (*1*) of section 7 of the said Act, after the words "for the purpose of sections" insert the figures and letters "3A, 3C".

Insertion of new section 11A in Act XII of 1925.

9. After section 11 of the said Act the following new section shall be inserted, namely :—

Power of Magistrate to pass sentence.

"11A. Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898, a Presidency Magistrate or a Magistrate of the First Class may pass any sentence provided for any offence punishable under this Act and the provisions of the said Code shall be deemed to have been amended accordingly." V of 1898.

Amendment of section 13 of Act XII of 1925.

10. (*1*) In section 13 of the said Act, after clause (*a*), the following clauses shall be inserted, namely :—

"(*aa*) what shall constitute an admixture of cotton ;

(*ab*) the period which shall from time to time constitute a season ;

(*ac*) the authority by whom, the form in which, the conditions subject to which and the fees on payment of which, a licence may be granted under sub-section (*1*) of section 2A ;

(*ad*) the particulars of the cotton ginning factory to be entered in the register maintained under sub-section (*2*) of section 3 ;

(*ae*) the proportion of seed which may be contained in cotton ;

(*af*) the person authorised to give a certificate regarding the quantity of moisture contained in any cotton and other matters specified in section 3A ;

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] The words "Central Government" were substituted for the words "Governor General in Council", *ibid.*

(*ag*) the person authorised to examine bales under section 3B ;

(*ah*) the procedure for making a complaint and causing the contents of a bale to be examined and the fee for examination of the contents of a bale under sub-section (*1*) of section 3B ;

(*ai*) the manner in which the things seized shall be sealed under section 3C."

(*2*) Section 13 of the said Act shall be renumbered as sub-section (*1*) of that section and after the sub-section so renumbered, the following sub-sections shall be added, namely :—

"(*2*) The rules to be made under sub-section (*1*) shall be subject to the condition of previous publication.

(*3*) Rules made under sub-section (*1*) shall as soon as they are made be laid [1][before each of the [2][Houses] of the [3][State] Legislature] for a period of one month and shall be liable to be modified or rescinded by a resolution [4][passed by each of the [2][Houses] during] the session thereof immediately following the expiry of the said period ; such rule shall, after notification in the [5][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of the [4][[3][State] Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [6][[3][State] Government] may, by notification in the [5][*Official Gazette*], declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded."

Addition of sections 16 and 17 in Act XII of 1925.

11. After section 15 of the said Act, the following sections shall be added, namely :—

Penalty.

"16. Whoever contravenes any of the provisions of this Act or any rule made thereunder or any of the conditions subject to which a licence has been granted to him shall, on conviction, if no other penalty is already provided in this Act for such contravention, be punishable with fine which may extend to five hundred rupees or, if he has previously been convicted of an offence under this Act or any rule made thereunder, with fine which may extend to fifteen hundred rupees.

Compounding offence etc.

17. (*1*) The District Magistrate may accept from any person whose licence is liable to be suspended, withdrawn or cancelled under this Act, or who is reasonably suspected of having committed an offence under this Act, a sum of money in lieu of such suspension, withdrawal or cancellation or by way of composition for the offence which may have been committed, as the case may be.

(*2*) On payment by such person of such sum to the District Magistrate, such person if in custody shall be set at liberty and if criminal proceedings shall have been instituted against such person, the composition shall be held to amount to an acquittal."

Amendment of sections 3, 4, 6, 7, 8 and 9 of Act XII of 1925.

12. In sub-sections (*5*) and (*6*) of section 3, in sub-section (*2*) of section 4, in sub-section (*2*) of section 6, in sub-section (*3*) of section 7, in sub-section (*2*) of section 8 and in sub-section (*3*) of section 9 of the said Act for the words "shall be punished" the words "shall, on conviction, be punishable" shall be substituted.

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[1] The words "before each of the Chambers of the Provincial Legislature" were substituted for the words "upon the table of the Bombay Legislative Council" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Chambers" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial", *ibid.*

The words "passed by each of the Chambers during" were substituted for the words "tabled at", by the Adaptation of Indian Laws Order in Council.

[5] The words "*Official Gazette*" were substituted for the words "*local official Gazette*", *ibid.*

[6] The words "Provincial Government" were substituted for the words "Local Government", *ibid.*

BOMBAY ACT No. XV OF 1936.[1]

[THE INDIAN LUNACY, BOMBAY DISTRICT MUNICIPAL AND BOMBAY MUNICIPAL BOROUGHS (AMENDMENT) ACT, 1936.]

[*27th November 1936.*]

An Act to amend the Indian Lunacy Act, 1912, in its application to the Presidency of Bombay, the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925.

IV of 1912. Bom. III of 1901. Bom. XVIII of 1925. 5 & 6 Geo. V, c. 61.

WHEREAS it is expedient to amend the Indian Lunacy Act, 1912, in its application to the Presidency of Bombay, the Bombay District Municipal Act, 1901, and the Bombay Municipal Boroughs Act, 1925, for the purposes hereinafter appearing; And whereas the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Indian Lunacy, Bombay District Municipal and Bombay Municipal Boroughs (Amendment) Act, 1936.

IV of 1912.

2. In the Indian Lunacy Act, 1912—

Amendment of section 88 of Act IV of 1912.

(*1*) In section 88—

(*i*) after the words "has the means to maintain him", the words "or if any local authority is liable for the cost of maintenance of such lunatic under any law for the time being in force" shall be inserted;

(*ii*) the words "or any local authority liable for the cost of maintenance of such lunatic under any law for the time being in force" shall be deleted;

(*iii*) after the word "resides", the words "or the local authority liable for the cost of his maintenance is constituted" shall be inserted;

(*iv*) at the end of the marginal note, the following words shall be added, namely:—

"or by local authority liable for such costs".

Amendment of section 89 of Act IV of 1912.

(*2*) In section 89—

(*i*) in sub-section (*1*)—

(*a*) after the words "such lunatic" where they occur for the second time, the words "or that any local authority is liable for the cost of maintenance of such lunatic under any law for the time being in force" shall be inserted;

(*b*) after the words "such person", the words "or from such local authority" shall be added;

(*c*) at the end, the following proviso shall be added, namely:—

"Provided that no order for the recovery of the cost of maintenance of such lunatic from a local authority shall be made if he has an estate applicable to his maintenance or if there is any person legally bound, and having the means, to maintain him."

(*ii*) in sub-section (*2*), after the word "person", the words "or the local authority" shall be inserted.

3-4. [*The amendments made by sections 3 and 4 of this Act have been incorporated in the Bombay District Municipal Act, 1901 and the Bombay Municipal Boroughs Act, 1925, respectively.*]

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1936, Part V, p. 164 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLV.

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THE BOMBAY FAMINE RELIEF FUND ACT, 1936.

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6. Investment and reinvestment of amounts not required.
7. Accounts of the Fund and making up of the deficiency in the Fund.

BOMBAY ACT No. XIX OF 1936.[1]

[THE BOMBAY FAMINE RELIEF FUND ACT, 1936.]

[*5th December 1936*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 13 of 1939.
" " " 9 of 1940.*
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 56 of 1950.
" " " 55 of 1954.

An Act to provide for the establishment and maintenance in the Presidency of Bombay of a Fund, called the Bombay Famine Relief Fund, for meeting expenditure at the time of serious famine or of distress caused by serious drought flood or other natural calamities in the said Presidency.

WHEREAS it is expedient to provide for the establishment and maintenance in the Presidency of Bombay of a Fund for utilisation on occasions of serious famine and of distress caused by serious drought, flood or other natural calamities in the said Presidency; And whereas the previous sanction of the Governor required by section 80C of the Government of India Act has been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V, c. 61.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Famine Relief Fund Act, 1936.

(*2*) It extends to the whole of the Presidency of Bombay.

(*3*) This section shall come into force at once. The remaining provisions of this Act shall come into force on such date as the [2][[3][State] Government] may, by notification in the [4][*Official Gazette*], appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Fund" means the Bombay Famine Relief Fund established under section 3; and

(*2*) "Presidency" means the Presidency of Bombay.

Establishment of the Bombay Famine Relief Fund.

3. On the commencement of this Act, the [2][[3][State] Government] shall establish in and for the Presidency a Fund called "The Bombay Famine Relief Fund." The Fund shall consist of—

(*i*) the securities of the [5][Central Government] mentioned in section 4;

(*ii*) the interest which may from time to time accrue on such securities;

(*iii*) such other sums as the [2][[3][State] Government] may from time to time contribute to the Fund under sub-section (*2*) of section 7 or otherwise; and

(*iv*) the interest which may from time to time accrue on the securities of the [5][Central Government] in which the sums to the credit of the Fund may be invested or reinvested under section 6.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1936, Part V, pp. 190-191; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLV.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[5] The words "Central Government" were substituted for the words "Government of India", *ibid.*

* This Act was re-enacted by Bom. 16 of 1947, s. 2.

Withdrawal of the Famine Relief Fund and its investment in securities of the Central Government.

4. The [1][[2][State] Government] shall, on the commencement of this Act, apply to the [3][Central Government] for permission to withdraw the balance to their credit in the Famine Relief Fund maintained under rule 29 of the Devolution Rules made under the Government of India Act and on such permission being accorded, the [1][[2][State] Government] shall, after setting apart from the balance so withdrawn, such sum as may be required during the remaining portion of the financial year 1936-37 for the grant of loans to cultivators and for meeting the expenditure on the relief of famine, if any, in the Presidency, invest the balance in securities of the [4][Central Government] in the name of the Secretary to the Government of Bombay, Finance Department. 5 & 6 Geo. V, c. 61.

Purposes for which the Fund may be utilised.

5. The Fund shall not be expended except upon—

(*i*) the relief of serious famine in the Presidency; and

(*ii*) the relief of distress caused by serious drought, flood or other natural calamities in the Presidency:

Provided that when the Fund exceeds [5][two hundred lakhs] of rupees, the [1][[2][State] Government] may utilise the excess to meet expenditure on protective irrigation works and other works for the prevention of famine in the Presidency, or for the grant of loans to cultivators either under the Land Improvement Loans Act, 1883, or under the Agriculturists' Loans Act, 1884, or for relief purposes, or in the repayment of advances made by the [3][Central Government] or to meet irrecoverable balances of loans granted under the said Acts or for relief purposes. XIX of 1883. XII of 1884.

Investment and reinvestment of amounts not required.

6. The [1][[2][State] Government] shall from time to time invest or re-invest [6][in Government securities as defined in section 2(*a*) of the Indian Securities Act, 1920, or in securities specified in clause (*c*) or (*d*) of section 20 of the Indian Trusts Act, 1882] all sums to the credit of the Fund, which may not be immediately required for any of the purposes mentioned in section 5. X of 1920. II of 1882.

Accounts of the Fund and making up of the deficiency in the Fund.

[7][**7.** (*1*) The accounts of the Fund shall be made up at the end of each financial year, the securities belonging to the Fund being valued at their market value on the last day of such year.

(*2*) If the accounts so made up show that the balance in the Fund at the end of such year falls short of [5][two hundred lakhs] of rupees, the deficiency shall be made up from the Consolidated Fund of the State:

Provided that if the deficiency exceeds ten lakhs of rupees, it may be made up in annual instalments, the amount of each instalment except the last being not less than ten lakhs of rupees.

(*3*) Any expenditure incurred by the State Government under sub-section (*2*) shall be charged on the Consolidated Fund of the State.]

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " Central Government " were substituted for the words " Governor General in Council " by the Adaptation of Indian Laws Order in Council.

[4] The words " Central Government " were substituted for the words " Government of India ", *ibid.*

[5] These words were substituted for the words " sixty-three lakhs " by Bom. 55 of 1954, s. 2.

[6] These words were substituted for the words " in securities of the Central Government " by Bom. 9 of 1940, s. 2, read with Bom. 16 of 1947, s. 2.

[7] Section 7 was substituted for the original by Bom. 56 of 1950, s. 3.

THE BOMBAY OPIUM SMOKING ACT, 1936.

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30. Protection of persons acting in good faith, and limitation of suits or prosecutions.
31. Certain officers to be public servants.

SCHEDULE.

BOMBAY ACT No. XX OF 1936.[1]

[THE BOMBAY OPIUM SMOKING ACT, 1936.]

[*7th December 1936*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 17 of 1945.†
" " " 43 of 1949.
Adapted and modified by the Adaptation of Laws Orders, 1950.

An Act to provide for the control of the practice of opium smoking and to prevent the assembling of persons for the purpose of such smoking in the Presidency of Bombay.

WHEREAS it is expedient to control the practice of opium smoking and to prevent the assembling of persons for such smoking in the Presidency of Bombay in the manner hereinafter appearing; And whereas the previous sanction of the Governor General required under sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required under section 80C of the said Act have been obtained to the passing of this Act; It is hereby enacted as follows:—

5 & 6 Geo. V c. 61.

CHAPTER 1.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Opium Smoking Act, 1936.

(*2*) It extends to the whole of the Presidency of Bombay.

(*3*) This section shall come into force at once. The [2][[3] [State] Government] may, by notification in the [4][*Official Gazette*], direct that the remaining provisions of this Act shall come into force on such date as may be appointed in the notification.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "Collector" includes an officer appointed under section 3 to exercise the powers and perform the duties of a Collector under this Act;

(*2*) "Commissioner" means the Commissioner of Excise;

(*3*) "Duly empowered" means duly empowered by the [2][[3] [State] Government] by a general or special order;

(*4*) "Instrument of smoking" means any article used for the purpose of smoking opium;

(*5*) "Opium" has the same meaning as is assigned to it in the Opium Act, 1878, and includes *chandul*, *madat*, opium dross or scrapings from the opium pipe and every other preparation or admixture of opium which may be used for smoking;

I of 1878.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1936, Part V, pp. 179—181; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLV.

[2] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

†This Act has been repealed and re-enacted and the amendments made by section 9 and Schdule E of the said Act were continued in force by Bom. 52 of 1947, s. 2.

(*6*) "Place" includes a house, building, shop, hut, tent, boat or vessel and any part thereof; and

(*7*) "Prepared opium" means any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking and the dross or other residue remaining after opium is smoked.

CHAPTER II.

PROHIBITION AND CONTROL.

Appointment of special Collectors.

3. The [1][[2][State] Government] may, by notification in the [3][*Official Gazette*], appoint any person other than the Collector of Land Revenue, to exercise in any district or area, all or any of the powers conferred, and perform all or any of the duties imposed, by this Act on a Collector, subject to such control, if any, in addition to that of the Commissioner and of the [1][[2][State] Government] as the [1][[2][State] Government] may from time to time direct.

Opium smoking assembly.

4. An assembly of two or more persons is designated an opium smoking assembly, when the common object of the persons composing that assembly is to smoke opium or to prepare opium for smoking purposes.

Explanation 1.—An assembly which was not an opium smoking assembly when it was assembled may subsequently become such assembly.

Explanation 2.—A man and his wife shall not be deemed to be an opium smoking assembly within the meaning of this section, even if their common object be to smoke opium or to prepare opium for smoking purposes.

Member of opium smoking assembly.

5. Whoever, being aware of facts which render an assembly an opium smoking assembly, intentionally joins that assembly, or continues therein, is said to be a member of that assembly.

Presumption raised by presence of opium and any instrument of smoking.

6. The presence of any opium or prepared opium, and of any instrument of smoking or of any apparatus used in the preparation of opium in any place where two or more persons are assembled shall be held sufficient to raise a presumption that each member of such assembly is present at such place for the purpose of smoking opium or of preparing opium for smoking purposes.

CHAPTER III.

OFFENCES AND PENALTIES.

Penalty for being member of opium smoking assembly.

7. Whoever is a member of an opium smoking assembly shall, on conviction, be punishable with imprisonment of either description for a term which may extend to one month, or with fine which may extend to Rs. 100, or with both.

Penalty for opening, keeping or having charge of place of Assembly.

8. [4][(*1*) Any person who—

(*a*) opens, keeps or uses any place for the purpose of an opium smoking assembly or in any way assists in conducting the business of any place used or kept for the purpose aforesaid, or

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", by the Adaptation of Indian Laws Order in Council.

[4] This section was substituted for the original by Bom. 43 of 1949, s. 2.

(*b*) being the owner, occupier or having the use or care or management or control of any place knowingly permits it to be opened, kept or used for the purpose of an opium smoking assembly,

shall, on conviction, be punished with imprisonment of either description for a term which may extend to six months or with fine which may extend to Rs. 1,000 or with both.

(*2*) It shall be presumed, until the contrary is proved, that a person accused of an offence under clause (*b*) of sub-section (*1*) has committed such offence if the offence committed by the person opening, keeping or using the place referred to in the said clause (*b*) is proved to have been committed in the place in the immediate possession of such accused person.]

Penalty when owner fails to give notice of use of place for such assembly.

9. Whoever, being the owner of any place and knowing or having reason to believe that such place, whether in his actual occupation or otherwise, is being or is about to be used for the purpose of an opium smoking assembly, fails, either himself or through his agent or servant, to give the earliest possible notice of such knowledge or belief to the Collector or the officer in charge of the nearest police station, or to an officer empowered under this Act to investigate offences punishable under this Act, shall, on conviction, be punishable with fine which may extend to Rs. 500.

Penalty for subsequent offences.

10. Whoever, having been convicted of an offence under section 7, section 8 or section 9, is again convicted of an offence under any of the said sections, shall, on conviction, be liable for any such subsequent offence to an enhanced punishment not exceeding double the punishment which might be imposed on a first conviction for such offence.

Security for abstaining from offences.

11. (*1*) Whenever any person is convicted of an offence punishable under this Chapter, and the court convicting him is of opinion that it is necessary to require such person to execute a bond for abstaining from the commission of offences punishable under this Chapter, the court may, at the time of passing sentence on such person, order him to execute a bond for a sum proportionate to his means, with or without sureties, for abstaining from the commission of such offences during such period, not exceeding three years, as it thinks fit to fix.

(*2*) The bond shall be in the form contained in the Schedule annexed to this Act and the provisions of the Code of Criminal Procedure, 1898, shall, in so far as they are applicable, apply to all matters connected with such bond, as if it were a bond to keep the peace ordered to be executed under section 106 of that Code.

V of 1898.

(*3*) If the conviction is set aside on appeal or otherwise, the bond so executed shall become void.

(*4*) An order under this section may also be made by an appellate court or by the High Court when exercising its power of revision.

CHAPTER IV.

PROCEDURE.

Power to issue warrants

12. The Commissioner, Collector or [1][any officer duly empowered] or a Magistrate authorized under section 24 to take cognizance of offences under this Act may issue a warrant for the arrest of any person whom he has reason to believe, to have

[1] These words were substituted for the words "any officer of the Excise Department duly empowered", by Bom. 43 of 1949 s. 3.

committed an offence under this Act, or for the search, whether by day or by night, of any place in which he has reason to believe that an offence under this Act has been, or is being or is likely to be committed, or in which opium, an instrument of smoking or an apparatus used in the preparation of opium is kept or concealed.

Power of entry, search and arrest by certain officer.

13. The Commissioner, Collector or any officer duly empowered, who has reason to believe that an offence under Chapter III has been, or is being or is likely to be, committed in any place, may—

(*a*) enter such place by day or by night with any person whose assistance he may consider necessary,

(*b*) search any such place in which he has reason to believe that any opium, or instrument of smoking, or any apparatus used in the preparation of opium is kept or concealed,

(*c*) detain and search, and, if he thinks proper, arrest any person found in such place or whom he has reason to believe to have committed an offence punishable under Chapter III, and

(*d*) seize all opium and instruments of smoking and any apparatus used in the preparation of opium which may be found in such place or on or about such person.

Arrest of persons obstructing officers in execution of duties under the Act.

14. The Commissioner, Collector or any officer duly empowered may arrest, without an order from a magistrate and without warrant, any person who obstructs him in the execution of his duty under this Act, or who has escaped or attempts to escape from custody in which he has been or is lawfully detained under this Act.

Mode of making searches and arrests.

15. (*1*) The provisions of the Code of Criminal Procedure, 1898, shall apply, so far as they are not inconsistent with the provisions of this Act, to all warrants issued and arrests and searches made under this Act. V of 1898.

(*2*) All such warrants shall be executed by a police officer, or an officer of the Excise Department duly empowered in this behalf or if the officer issuing the warrant deems fit by any other person :

Provided that no search shall, in the absence of local search witnesses, be deemed to be illegal or defective or irregular, if such absence is explained to the satisfaction of the court.

Disposal of persons arrested and of articles seized.

16. (*1*) Every person arrested and article seized under a warrant issued under section 12 shall be forwarded without delay to the authority by whom the warrant was issued, and every person arrested and article seized under section 13 or section 14 shall be forwarded without delay to—

(*a*) the nearest officer [1][duly] empowered under section 18, or

(*b*) (*i*) in [2][the Greater Bombay] to the nearest officer in charge of a section within the meaning of the City of Bombay Police Act, 1902, and Bom. IV of 1902.

(*ii*) elsewhere, to the officer in charge of the nearest police station within the meaning of the Code of Criminal Procedure, 1898. V of 1898.

(*2*) The authority or officer to whom any person or article is forwarded under this section shall, with all convenient despatch, take such measures as may be necessary for the disposal, according to law, of such person or article.

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[1] This word was substituted for the words "of the Excise Department" by Bom. 43 of 1949, s. 4.

[2] These words were substituted by Bom. 17 of 1945, read with Bom. 52 of 1947, s. 2, proviso.

Refusal to give name and residence.

17. (*1*) When any person who, in the presence of any officer of such rank as the [1][[2][State] Government] may, by general or special order, specify in this behalf, has committed or has been accused of committing an offence under this Act, refuses on demand of such officer to give his name and residence, or gives a name or residence which such officer has reason to believe to be false, he may be arrested by such officer in order that his name and residence may be ascertained.

(*2*) When the correct name and residence of such person have been ascertained, he shall be released on his executing a bond, with or without sureties, to appear before a magistrate, if so required :

Provided that if such person is not resident in [3]*India the bond shall be secured by a surety or sureties residing in [3]*India.

(*3*) Should the correct name and residence of such person not be ascertained within 24 hours from the time of arrest, and should he fail to execute the bond, or, if he is so required to furnish sufficient sureties, he shall be forthwith forwarded to the nearest magistrate having jurisdiction.

Certain officers empowered to investigate offences under the Act.

18. (*1*) The Commissioner, Collector and [4][any officer duly empowered] shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(*2*) Every such officer shall in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence :

V of 1898

Provided that—

(*a*) if such officer is of opinion that there is not sufficient evidence or reasonable ground of suspicion to justify the forwarding of an accused to a magistrate or that the person arrested may be discharged with a warning, such officer shall release him on his executing a bond, with or without sureties, to appear if and when so required, before a magistrate and shall make a full report of the case to his superior officer, if any, and be guided by the order which he shall receive on such report ;

(*b*) the powers of such officers other than the Commissioner or Collector shall be subject to such further modifications or restrictions as the [1][[2][State] Government] may determine.

Offences under the Act to be bailable.

19. (*1*) All offences punishable under this Act shall be bailable.

(*2*) Any officer authorised under section 18 to investigate an offence punishable under this Act shall have power to grant bail in accordance with the provisions of the Code of Criminal Procedure, 1898, to any person arrested without warrant for an offence punishable under this Act.

V of 1898

Articles seized during investigation.

20. When anything has been seized by any officer exercising powers under section 18, such officer, after such inquiry as may be necessary—

(*a*) if it appears that such thing is required as evidence in the case of any person arrested, shall forward the thing to the magistrate to whom such person is forwarded or before whom bail has been taken for his appearance ;

(*b*) if it appears that such thing is liable to confiscation, but is not required as evidence as aforesaid, shall send the thing with a report of the particulars of the seizure to his superior officer, if any ;

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[1] The words " Provincial Government " were substituted for the words " Local Government " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The word " British " was omitted, *ibid.*

[4] These words were substituted for the words " any officer of the Excise Department duly empowered in this behalf " by Bom. 43 of 1949, s. 5.

(*c*) if no offence appears to have been committed, shall return the thing to the person from whose possession it was taken and shall report to his superior officer, if any, accordingly.

Officers and persons required to assist in detection of offences under the Act.

21. All village officers, all village servants useful to Government and all officers of the Departments of Police, Forest, Customs, Salt Revenue and all persons in the employment of the Bombay Port Trust shall be bound—

(*a*) to give immediate information to any of the officers mentioned in section 12 or section 13 or section 18 of the commission of any offence and of the intention or preparation to commit any offence under this Act which may come to their knowledge ;

(*b*) to take all reasonable measures in their power to prevent the commission of any such offence which they may know or have reason to believe is about to be committed ; and

(*c*) assist such officer in carrying out the provisions of this Act.

Penalty for neglecting to assist officers acting under the Act.

22. Any officer or person mentioned in the preceding section who without lawful excuse neglects or refuses to give information or to take preventive measures or to give assistance to any of the officers mentioned in section 12 or section 13 or section 18 in the manner required by the preceding section shall, on conviction be punishable with fine which may extend to Rs. 500.

Pealty for vexatious search or arrest.

23. Any officer empowered under this Act who—

(*a*) without reasonable ground of suspicion enters or searches, or causes to be searched any place, or

(*b*) vexatiously and unnecessarily seizes the property of any person on the pretext of seizing or searching for anything liable to confiscation under this Act, or

(*c*) vexatiously and unnecessarily detains, searches or arrests any person shall, on conviction, be punishable with fine which may extend to Rs. 500.

Jurisdiction.

24. No Magistrate other than a Presidency Magistrate, or a Magistrate of the First Class, or a Magistrate of the Second Class duly empowered in this behalf, shall take cognizance of any offence under this Act.

Cognizance of offences.

25. No Magistrate shall take cognizance of any offence punishable under this Act,—

(*a*) except on the complaint or report of the Commissioner or a Collector or any other officer duly empowered under section 12 or a police officer, or

(*b*) except upon his own knowledge or suspicion.

Things liable to confiscation.

26. Whenever any offence under this Act, has been committed, all opium, prepared opium, instruments of smoking and apparatus used in the preparation of opium found in the place or with the persons forming an opium smoking assembly, together with the receptacles, packages, coverings, animals, carts, vessels or other conveyances used in carrying them shall be liable to confiscation.

Procedure in making confiscation.

27. (*1*) In the trial of offences under this Act, whether the accused is convicted or acquitted, the court shall decide whether any article seized under this Act is liable to confiscation under the preceding section, and if it decides that the article is so liable, it may order its confiscation accordingly.

(*2*) When any article seized under this Act appears liable to confiscation under the preceding section but the person who committed the offence in connection therewith is not known or cannot be found, the Collector or other officer duly empowered in this behalf may inquire into and decide such liability and may order confiscation accordingly :

Provided that no order of confisaction of an article shall be made until the expiry of one month from the date of seizure or without hearing any person who may claim any right thereto and the evidence, if any, which he produces in support of his claim :

Provided further that if any such article, other than opium, is liable to speedy and natural decay, or if the Collector or other officer is of opinion that its sale would be for the benefit of its owner, he may at any time direct it to be sold, and the provisions of this sub-section shall, as nearly as may be practicable, apply to the net proceeds of the sale.

(*3*) Any person not convicted who claims any right to property which has been confiscated under this section may appeal to the Court of Session against the order of confiscation.

CHAPTER V.

MISCELLANEOUS.

Delegation of powers.

28. The powers conferred on the Commissioner or Collector under this Act may, subject to the general or special orders of [1][the [2][State] Government], be delegated by the Commissioner or Collector, as the case may be, in whole or in part, to any subordinate officer.

Power to make rules.

29. (*1*) The [3][[2][State] Government] may make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes :—

(*a*) regulating the disposal of things confiscated,

(*b*) prescribing and regulating the payment of rewards out of fines imposed under this Act,

(*c*) providing for any other matter for which there is no provision or there is insufficient provision in this Act and for which provision is, in the opinion of the [3][[2][State] Government], necessary for giving effect to the provisions of this Act.

(*3*) Rules made under this section shall be subject to the condition of previous publication in the [4][*Official Gazette*].

(*4*) Rules made under this section shall be laid [5][before each [6][House] of the [2][State] Legislature] at the session [7][thereof] next following and shall be liable to be modified or rescinded by a resolution [8][in which both the [6][Houses] concur], and such rule shall, after notification in the [4][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

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[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "Provincial Government" were substituted for the words "local Government" by the Adaptation of Indian Laws Order in Council.

[4] These words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*", *ibid.*

[5] The words "before each Chamber of the Provincial Legislature" were substituted for the words "upon the table of the Bowbay Legislative Council", *ibid.*

[6] The words "House" and "Houses" were substituted for the words "Chamber" and "Chambers" respectively by the Adaptation of Laws Order, 1950.

[7] The word "thereof" was substituted for the words "of the said Council", by the Adaptation of Indian Lows Order in Council.

[8] The words "in which both the Chambers concur" were substituted for the words "of the said Council", *ibid.*

Provided that when, in the opinion of the [1][[2]State] Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [1][[2]State] Government] may, by notification in the [3]*Official Gazette*], declare that such modification or rescission shall have no effect, and thereupon the rule shall remain in force as if it had not been modified or rescinded.

Protection of persons acting in good faith, and limitation of suits or prosecutions.

30. (*1*) No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit shall be instituted against [4][the [5]Government] and no prosecution or suit shall lie against any officer in respect of anything done or alleged to have been done in pursuance of this Act, unless such suit or prosecution has been instituted within three months of the date of the act complained of.

Certain officers to be public servants.

31. All officers empowered under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

SCHEDULE.

Bond to abstain from the commission of offences under the Bombay Opium Smoking Act, 1936.

(Section 11.)

Whereas I (name) inhabitant of (place) have been called upon to enter into a bond to abstain from the commission of offences under section 7, section 8 and section 9, of the Bombay Opium Smoking Act, 1936, for the term of I hereby bind myself not to commit any such offence during the said term and, in case of my making default therein, I hereby bind myself to forfeit to [6][the State Government], the sum of rupees.

Dated this day of 19

(Signature)

(Where a bond with sureties is to be executed, add—)

We do hereby declare ourselves sureties for the above-named that he will abstain from the commission of offences under section 7, section 8 and section 9 of the Bombay Opium Smoking Act, 1936, during the said term; and, in case of his making default therein, we bind ourselves, jointly and severally, to forfeit to [6][the State Government] the sum of rupees

Dated this day or 19

(Signature)

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[1] The words "Provincial Government" were substituted for the words "Local Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[4] The words "the Crown" were substituted for the words "Government", *ibid.*

[5] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[6] These words were substituted for the words "His Majesty the King Emperor of India", *ibid.*

THE PARSI PUBLIC TRUSTS REGISTRATION ACT, 1936.

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MO-II Bk H 957—39a

BOMBAY ACT No. XXIII OF 1936.[1]

[THE PARSI PUBLIC TRUSTS REGISTRATION ACT, 1936.]

[*31st December 1936.*]

Adapted and modified by the Adaptation of Indian Laws Order in Council.
Amended by Bom. 10 of 1944.*
Amended by Bom. 17 of 1945.†
Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to make provision for the registration, publication and inspection of Trusts created or existing for a public purpose for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping, auditing, filing, inspection and publication of accounts in respect thereof.

WHEREAS it is expedient to provide for the registration, publication and inspection of Trusts created or existing for a public purpose of a charitable or religious nature for the benefit of Parsis and of certain Trusts created by Parsis, and for the keeping, auditing, filing, inspection and publication of accounts in respect of the same; AND WHEREAS the previous sanction of the Governor General required by sub-section (*3*) of section 80A of the Government of India Act and the previous sanction of the Governor required by section 80C of the said Act have been obtained for the passing of this Act; It is hereby enacted as follows :—

5 & 6 Geo. V. c. 61.

Short title and extent.

1. (*1*) This Act may be called the Parsi Public Trusts Registration Act, 1936.

(*2*) It extends to the whole of the Bombay Presidency.

(*3*) [2][The [3][State] Government] may, by notification in the [4][*Official Gazette*], direct that this Act shall come into force on such date as may be appointed in the notification.

Application.

2. (*1*) The provisions of this Act shall in the first instance apply to public trusts created or existing solely for the benefit of the Parsi community or any section of such community and, having an annual gross income of not less than Rs. 1,000.

(*2*) [2][The [3][State] Government] may, by notificatgion in the [4][*Official Gazette*] exempt any trust or any class of trusts from all or any of the provisions of this Act.

(*3*) In the case of a public trust of which the author belongs to the Parsi community and which is created or exists not solely for the benefit of the said community, [2][the [3][State] Government] may, on application of such author, or, if such author is dead, of the majority of the trustees of such trust, by notification in the [4][*Official Gazette*] apply all or any of the provisions of this Act to such trust.

Bom. XXV of 1935.

(*4*) The provisions of the Bombay Public Trust Registration Act, 1935, shall not apply to any public trust to which any of the provisions of this Act apply.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1935, Part V, pp. 348-349 for Report of the Select Committee, *see Bombay Government Gazette*, 1936, Part V, pp. 96-103; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1936, Vol. XLV.

[2] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*," by the Adaptation of Indian Laws Order in Council.

*This Act was re-enacted by Bom. 25 of 1948, s. 3.

†This Act was repealed and re-enacted and the amendments made by section 9 and Schedule E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Definitions.

3 In this Act unless there is anything repugnant in the subject or context,—

(*1*) "Manager" means a trustee or any other person who for the time being either alone or in association with some other person or persons administers the property of any public trust.

(*2*) "Prescribed" means prescribed by rules made under this Act.

(*3*) "Public trust" means an express or constructive trust created or existing for public purposes of a religious or charitable nature.

(*4*) "Registrar" means a person appointed under section 4 to exercise the powers and perform the duties of a Registrar of Parsi Public Trusts under this Act.

(*5*) "Rules" means rules made under this Act.

(*6*) Words or expressions used but not defined in this Act and defined in the Indian Trusts Act, 1882, shall have the meanings assigned to them in that Act. II of 1882.

Appointment of Registrars.

4. [1][The [2][State] Government] may appoint officers belonging to the Judicial Service not below the rank of a Subordinate Judge of the First Class or a Judge of a Court of Small Causes to be Registrars of Parsi public trusts for the purposes of this Act, and may define the district or area within which each of them shall exercise his powers and perform his duties.

Obligation to furnish particulars relating to public trusts.

5. (*1*) Every manager of the property of a public trust shall, in the case of—

(*i*) a public trust created before the commencement of this Act, within twelve months of the commencement of this Act, and

(*ii*) a public trust created after the commencement of this Act, within twelve months of the vesting in or the assumption by him of the administration of the property of such trust,

submit to the Registrar within whose jurisdiction the whole or any substantial portion of the subject matter of such trust is situate or the property or funds of such trust or any substantial portion thereof are for the time being administered a statement in the prescribed form and accompanied by the prescribed fee, containing the following particulars :—

(*a*) the names and addresses of the trustees and the manager and the mode of succession to the office of trustee,

(*b*) the description of the trust property, both moveable and immovable, sufficient for the identification thereof, and the approximate value thereof,

(*c*) the gross average annual income of such property estimated on the income of the three years immediately preceding the date on which the statement is submitted or of the period which has elapsed since the creation of the trust, whichever period is shorter,

(*d*) the amount of the average annual expenditure in connection with the public trust estimated on the expenditure incurred within the period to which the particulars under clause (*c*) relate,

(*e*) any other particulars as may be prescribed.

(*2*) A copy of the deed or instrument creating the public trust or such extract thereof as in the opinion of the Registrar sufficiently shows the origin, nature and object of such trust shall accompany such statement or if no such deed or instrument has been executed or if a copy thereof cannot be obtained such statement shall contain full particulars so far as they are known to the manager of the origin, nature and object of the public trust.

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[1] The words "The Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950

(*3*) Such statement shall be signed by the manager or his agent specially authorized in this behalf.

(*4*) Every person signing the statement shall verify it in the manner prescribed.

(*5*) The Registrar may for sufficient cause extend the period for furnishing a statement under this section.

Power of Registrar to hold inquiry.

6. (*1*) A Registrar may either on his own motion or upon the petition of a person having an interest in a public trust hold an enquiry in the prescribed manner to ascertain—

(*i*) whether a trust is a public trust,

(*ii*) whether any property is the property of such trust,

(*iii*) whether the whole or any substantial portion of the subject matter of the trust is situate, or whether the property or funds of such trust or any substantial portion thereof are for the time being administered, within his jurisdiction,

(*iv*) the names and addresses of the trustees and manager of such trust and the mode of succession to the office of trustee of such trust,

(*v*) the origin, nature and object of such trust,

(*vi*) the amounts of gross average annual income and expenditure of such trust, and

(*vii*) any other particulars as may be prescribed under sub-section (*1*) of section 5.

(*2*) The petition referred to in sub-section (*1*) shall show in what way the petitioner claims to be interested in the public trust and shall be signed and verified in the manner prescribed for the signing and verification of a statement under section 5.

(*3*) If it comes to the knowledge of the Registrar that a suit has been instituted in any Court in regard to any of the matters mentioned in sub-section (*1*), he shall stay the enquiry so far as it relates to, or is likely to be affected by the Court's findings or orders in regard to such matters, until the suit is finally decided in that Court.

(*4*) The Registrar shall from time to time ascertain whether such suit has been finally decided and after the final decision of the suit, he shall proceed with the enquiry in regard to such matters as may not have been decided in such suit.

(*5*) On completion of the enquiry provided for in sub-sections (*1*) and (*4*), the Registrar shall record his findings as to the matters mentioned in the said sub-sections except such matters as may have been decided in such suit.

(*6*) For the purpose of this section the Registrar shall have and may exercise the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908, in respect of the following matters :— V of 1908.

(*a*) enforcing the attendance of any person and examining him on oath,

(*b*) compelling the production of documents and material objects,

(*c*) issuing commissions for the examination of witnesses,

(*d*) proof of facts by affidavits.

(*7*) Save as provided in this section, the Registrar shall not determine any question of title between persons claiming adversely to each other or to the trust.

Register of Parsi Public Trusts.

7. The Registrar shall, after the submission of a statement under section 5 and an enquiry, if necessary, held under section 6, or merely after an enquiry held under section 6, record entries in such form as may be prescribed in a register called the **Register of Parsi Public Trusts** and shall file the statement, if any.

Amendment of entries in Register.

8. (*1*) When any change occurs in any of the particulars recorded in the Register of Parsi Public Trusts, the manager shall, within six months of the occurrence of such change, report to the Registrar such change in a statement in the prescribed form and accompanied by the prescribed fee. The provisions of sections 5 and 6 shall, so far as may be, apply to such statement.

(*2*) For the purpose of verifying the correctness of the entries in the Register of Parsi Public Trusts or ascertaining whether any change has occurred in any of the particulars recorded in such Register, the Registrar may hold an enquiry in the prescribed manner and the provisions of section 6 shall, so far as may be, apply to such inquiry.

(*3*) If the Registrar, after receiving a report under sub-section (*1*) and holding an enquiry, if necessary, under sub-section (*2*), or merely after an enquiry held under sub-section (*2*), is satisfied that a change has occurred in any of the particulars recorded in the Register of Parsi Public Trusts with regard to a public trust, he shall amend in th prescribed manner the entry or entries affected by such change and shall file the statement furnished under sub-section (*1*) along with the statement, if any, relating to the said trust filed under section 5.

Stay of inquiry or entry in Register.

9. (*1*) No Registrar shall proceed with an enquiry under section 6 or 8, or shall act under section 7, in regard to any public trust particulars of which have been recorded in the Register of Parsi Public Trusts by the Registrar of any other district or area.

(*2*) If an enquiry under section 6 or 8 in regard to any public trust is pending before the Registrars of two or more districts or areas, [1][the Provincial Government] shall, on the application of any of the parties having an interest in such trust or of any of such Registrars or on their own motion, determine which of such Registrars shall proceed with the enquiry in regard to such trust; and upon such determination no Registrar other than such Registrar shall proceed with an enquiry under section 6 or 8 or act under section 7 in regard to such trust.

Entries in Register to be final subject to section 11.

10. (*1*) Entries made by the Registrar in the Register of Parsi Public Trusts in accordance with the provisions of sections 6 and 8 shall, subject to the provisions of section 11, be final for the purposes of this Act.

(*2*) Nothing in this section shall be deemed to bar in any way the right of any person aggrieved by any such entry to institute a suit in a court of competent jurisdiction in regard to any matter affected by such entry.

Amendment of Register by order of Court.

11. A Civil Court of competent jurisdiction deciding any question relating to any trust to which this Act applies or in respect of which any entry has been recorded in a Register of Parsi Public Trusts shall communicate its decision to the Registrar and the Registrar shall make entries or amendments of entries in the Register of Parsi Public Trusts relating to the said trust in accordance with its decision.

Maintenance of accounts and their audit.

12. (*1*) Every manager of a public trust in respect of which an entry has been recorded in the Register of Parsi Public Trusts under section 6 shall keep regular accounts of all moveable and immovable properties, except such articles as are of a perishable nature, received, and of all encumbrances created on the trust property and of all payments and alienations made, on behalf of the public trust of which he is the manager. Such accounts shall be kept in such form and shall contain such particulars as may be prescribed.

[1] The words "the Provincial Government" were substituted for the word "Government" by the Adaptation of Indian Laws Order in Council.

(*2*) The accounts shall be balanced each year on the thirty-first day of March, or such other date, as the manager of any particular public trust may at his option choose in regard to such trust : provided that when such date is so chosen, the manager shall as soon as practicable intimate to the Registrar the date so chosen ; provided further that the date so chosen may be altered only with the consent of the Registrar and subject to such conditions as he may think fit to impose. The accounts so balanced shall be examined and audited annually in such manner and [1][by a chartered Accountant within the meaning of the Chartered Accountants Act, 1949, or by a firm whrerof all the partners practising in India are charterd accountants within the meaning of the said Act], or by such persons as may be prescribed.

XXXIII of 1949.

(*3*) Every auditor acting under sub-section (*2*) shall have-access to the accounts and to all books, vouchers, other documents and records in the possession or under the control of the manager.

(*4*) Within six months after the thirty-first day of March, or such other date, as may be chosen by the manager in any particular case, under sub-section (*2*) of the year for which the accounts are balanced, every manager shall prepare and furnish to the Registrar, a full and true statement of the accounts, in such form and containing such particulars as may be prescribed together with the audit note, if any, relating thereto :

Provided that the Registrar may, if he is satisfied that there is any sufficient cause for so doing, extend the time for the furnishing of any statement of accounts and audit note under this section.

Exception.—Nothing in this section shall apply—

(*1*) to any public trust in respect of which a scheme has been settled under section 92, Civil Procedure Code, 1908, and such scheme requires the submission of accounts of such trusts to the court and audit thereof by any person appointed or approved by the court, or

V of 1908.

(*2*) to any trust property which is vested in the Treasurer of Charitable Endowments, the Administrator General or the Official Trustee.

Trustees entitled to pay costs of audit, etc. from trust funds.

13. Notwithstanding anything contained in the deed or instrument creating any trust, every manager may pay from the income of the trust property any expenses properly incurred by him for the purpose of enabling him to furnish any particulars, documents or copies under section 5 or section 6 or in respect of the preparation or audit of the annual accounts for the purpose of this Act.

Inspection and copies.

14. Any person who in the opinion of the Registrar has an interest in any public trust shall, on payment of the prescribed fee, be entitled to inspect in the prescribed manner or to obtain a copy of any statement of particulars or any other document furnished to the Registrar under section 5 or section 6 or any statement of accounts furnished to him under section 12 (*4*) or any audit report made on an audit under section 12 (*2*) relating to such trust.

Annual contribution from Parsi Public Trusts.

15. Every public trust shall, for the purpose of meeting the charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act, be liable to pay to the Parsi Public Trusts Administration Fund of the district or area concerned, annually such contribution, on such date and in such manner, as may be prescribed :

[1] This portion was substituted for the portion beginning with the words " by a person who is the holder " and ending with the words and figures " Indian Companies Act, 1913 " by the Adaptation of Laws Order, 1950.

Provided that the contributions prescribed under this section shall be fixed at rates in proportion to the gross income of the public trust but in accordance with a progressively diminishing scale.

Explanation.—Progressively diminishing scale shall, for the purposes of this section, mean a scale of rates which shall diminish in proportion to the increase in the income of any public trust.

Parsi Public Trusts Administration Fund.

16. For each district or area for which a Registrar is appointed under section 4 there shall be created a fund to be called the Parsi Public Trusts Administration Fund of the district or area concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise in such district or area, namely :—

(*a*) any fees which may be levied under section 5, 8 or 14,

(*b*) contributions under section 15,

(*c*) any sums received by the Parsi Public Trusts Administration Fund from private sources,

(*d*) any sums allotted by [1][the [2][State] Government] or by any local authority to the Parsi Public Trusts Administration Fund.

Explanation.—For the purposes of this section [3][the Greater Bombay] shall be deemed to be a district.

Application of Parsi Public Trusts Administration Fund.

17. The Parsi Public Trusts Administration Fund of a district or any area as created under section 16 shall, subject to the provisions of this Act, be under the control and management of the Registrar and shall be applicable to the payment of charges for and expenses incidental to the registration of public trusts, the maintenance of the registers of such trusts and generally carrying into effect the provisions of this Act.

Special audit.

18. It shall be competent to the Registrar, at any time, for reasons to be recorded in writing, to order a special audit of the accounts of a public trust by such person as may be prescribed and to order the cost of such audit to be paid by the trustee or manager from the income of the property of the public trust or out of the Parsi Public Trusts Administration Fund.

Publication of list of Parsi Public Trusts.

19. Every Registrar shall publish annually under his signature, in the [4][*Official Gazette*] and [5][if the [2][State] Government so directs] in a newspaper published in the principal vernacular of, and circulating in, the district or area, a list of public trusts and a statement of the sums standing to the credit of the Parsi Public Trusts Administration Fund, in such form and on such date as [1][the [2][State] Government] may prescribe.

Penalty for failure to furnish or for furnishing false statements under section 5, 6 or 8.

20. (*1*) If any manager fails or neglects to submit a statement to the Registrar as required under section 5, 6 or 8 or submits a statement under either of these sections which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 500.

Penalty for failure to furnish statement of accounts or furnishing false statements under section 12.

(*2*) If any manager fails or neglects to keep accounts or to furnish a statement of accounts under section 12 or furnishes a statement which he knows or has reason to believe to be false in any material particular, such manager shall on conviction be punishable with fine not exceeding Rs. 200.

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[1] The words "the Provincial Government" were substituted for the word "Governwent" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the adaptation of Laws Order, 1950.

[3] These words were substituted for the original by Bom. 17 of 1945, read with Bom. 52 of 1947, s. 2, proviso.

[4] The words "*Official Gazette*" were substituted for the words "*Bombay Government Gazette*" by the Adaptation of Indian Laws Order in Council.

[5] These words were inserted by Bom. 10 of 1944, read with Bom. 25 of 1948, s. 3.

(*3*) If any person fails to comply with any order issued by the Registrar under or in pursuance of the provisions of this Act, such person shall on conviction be punishable with fine which may extend to Rs. 100. Penalty for failure to comply with the order of Registrar.

(*4*) Any Court may, in passing an order of conviction and sentence for any of the offences under sub-section (*1*), (*2*) or (*3*), specify a period within which the person convicted shall comply with the provisions of this Act which may be found to have been contravened by him and may also prescribe a daily fine not exceeding Rs. 50 for every day for the period during which the default continues after the expiry of the period so specified : Penalty for continuing offence and power of Magistrate to direct compliance with the provisions of the Act.

Provided that if the person failing to comply with any direction issued by the Court satisfies the Court that there was good reason for his failure to so, and applies for extension of the period specified under this section, the Court may, if it thinks fit, extend the period and may remit the whole or any part of the fine paid or due.

21. (*1*) No prosecution under this Act shall be instituted except on the complaint of the Registrar within whose jurisdiction the whole or a substantial portion of the property of the public trust in respect of which the offence is committed is situate or within whose jurisdiction the property or funds of such trust or any substantial portion thereof are for the time being administered. Cognizance of offences.

(*2*) No Court inferior to that of a Presidency Magistrate or of a Magistrate of the First Class shall try any offence under this Act.

22. Every Registrar appointed under this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. Registrar to be deemed a public servant.

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23. No action for damages and no prosecution shall lie against any person for anything which is in good faith done or intended to be done under this Act. Bar of prosecution of persons acting in good faith.

24. All sums due under this Act shall be recoverable as arrears of land revenue. Recovery of sums due under this Act.

25. (*1*) [1][The [2][State] Government] may make rules for the purpose of carrying into effect the provisions of this Act. Power of [2][State] Government to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing provisions, such rules may be made for all or any of the following purposes, namely :—

(*a*) Prescribing the form in which a statement shall be furnished to the Registrar and the fee payable along with such statement under section 5 (*1*).

(*b*) Prescribing the particulars to be included in the statement to be furnished to the Registrar under section 5 (*1*), clause (*e*).

(*c*) Prescribing the manner in which the statement furnished to the Registrar shall be verified undr section 5 (*4*).

(*d*) Prescribing the manner in which the Registrar shall make an inquiry under sections 6 and 8.

(*e*) Prescribing the form of Register of Parsi Public Trusts to be kept under section 7 and the manner in which entries recorded therein shall be amended under section 8 (*3*).

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[1] The words "The Provincial Government" were substituted for the word "Governwent" by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*f*) Prescribing the form of the statement reporting a change and the fee payable along with such statement under section 8.

(*g*) Prescribing the form and particulars of accounts to be kept in respect of a public trust under section 12 (*1*).

(*h*) Prescribing the manner in which and the persons by whom the accounts of public trusts shall be audited under sections 12 (*2*) and 18.

(*i*) Prescribing the form and particulars of accounts to be furnished to the Registrar under section 12 (*4*).

(*j*) Prescribing the fee payable for the inspection of the Register of Parsi Public Trusts under section 14.

(*k*) Prescribing the conditions under which inspection of statements, notices, intimations, accounts and audit notes shall be permitted and the fees payable for such inspection under section 14.

(*l*) Prescribing the fee payable for obtaining certified copies of entries in the Register of Parsi Public Trusts and of documents filed with the Registrar under section 14.

(*m*) Prescribing the amount of contribution payable by a Public Trust and the date and the manner of such payment under section 15.

(*n*) Prescribing the objects in addition to those specified in section 17, to which the Parsi Public Trusts Administration Fund shall be applied under the said section.

(*o*) Any other matter not specifically provided for in this Act, but which in the opinion of [1][the [2][State] Government] is necessary for carrying into effect the provisions of this Act :

Provided that the rules made under clauses (*a*), (*f*), (*j*) and (*m*) shall provide for such adjustment from time to time of the rates of fees payable under section 5, 8 and 14 and the contributions payable under section 15 in respect of the public trusts in any district or area as not ordinarily to leave any surplus in the Parsi Public Trusts Administration Fund of the said district or area at the end of any year in excess of the amount sufficient in the opinion of [1][the [2][State] Government] for payment of the charges and expenses referred to in section 17.

(*3*) The rules made under this section shall be subject to the condition of previous publication in the [3][*Official Gazette*].

(*4*) Rules made under this section shall be laid [4][before each [5][House] of the [2][State] Legislature] at the session [6][thereof], next following and shall be liable to be modified or rescinded by a statutory motion [7][carried in both the [5][Houses] and such rules shall, after notification in the [3][*Official Gazette*], be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of [1][the [2][State] Government], such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, [1][the [2][State] Government] may, by notification in the [3][*Official Gazette*] declare that the modification or rescission shall have no effect and thereupon the rules shall remain in force as if they had not been modified or rescinded.

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[1] The words " the Provincial Government " were substituted for the word " Governwent " by the Adaptation of Indian Laws Order in Council.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] The words " *Official Gazette* " were substituted for the words " *Bombay Government Gazette* " by the Adaptation of Indian Laws Order in Council.

[4] The words " before each Chamber of the Provincial Legislature " were substituted for the words " upon the table of the Bombay Legislative Council ", *ibid.*

[5] The words " House " and " Houses " were substituted for the words " Chamber " and " Chambers " respectively by the Adaptation of Laws Order, 1950.

[6] The word " thereof " was substituted for the words " of the said Council ", by the Adoptation of the Indian Laws Order in Council.

[7] The words " carried in both the Chambers " were substituted for the words " of the said Council ", *ibid.*

PART V

Acts passed by the Bombay Legislature and Regulations made by the Governor of Bombay under sub-section (2) of section 92 of the Government of India Act, 1935

The Bombay Legislature Members (Removal of Disqualifications) Act, 1937 (Bom. I of 1937), at pages 2043-2046 has been repealed by the Bombay Legislature Members (Removal of Disqualifications) Act, 1951 (Bom. XXV of 1951), section 3.

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The Bombay Legislative Council (President and Deputy President) and the Bombay Legislative Assembly (Speaker and Deputy Speaker) Salaries Act, 1937 (Bom. II of 1937), at pages 2047-2050 has been repealed by the Bombay Legislative Council (Chairman and Deputy Chairman) and the Bombay Legislative Assembly (Speaker and Deputy Speaker) Salaries and Allowances Act, 1952 (Bom. VIII of 1952), section 13.

THE BOMBAY LEGISLATURE MEMBERS' SALARIES AND ALLOWANCES ACT, 1937.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Definitions.
3. Salaries and allowances to be paid to Members.
4. Minister, President or Speaker or Parliamentary Secretary not entitled to salary or allowances under this Act.
5. Power of Provincial Government to make rules.

BOMBAY ACT No. III OF 1937.[1]

[THE BOMBAY LEGISLATURE MEMBERS' SALARIES AND ALLOWANCES Act, 1937.]

[*23rd October 1937.*]

Amended by Bom. 11 of 1946*.

An Act to provide for the salaries and allowances of Members of the Bombay Legislature.

WHEREAS it is expedient to provide for the salaries and allowances of Members of the Bombay Legislature; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Bombay Legislature Members' Salaries and Allowances Act, 1937.

Definitions.

2. In this Act—

(*1*) "Assembly" means the Bombay Legislative Assembly constituted under the said Act.

(*2*) "Chamber" means the Assembly or the Council, as the case may be.

(*3*) "Council" means the Bombay Legislative Council constituted under the said Act.

(*4*) "Member" means the Member of a Chamber.

(*5*) "Minister" means a Minister chosen and for the time being holding the office of a Minister under section 51 of the said Act.

(*6*) "Parliamentary Secretary" means the Parliamentary Secretary to the Minister.

(*7*) "President" means the President of the Council.

(*8*) "Speaker" means the Speaker of the Assembly.

26 Geo. 5, c. 2.

(*9*) "The said Act" means the Government of India Act, 1935.

Salaries and allowances to be paid to Members.

3. [2][(*1*)] There shall be paid to each Member—

(*a*) a salary at the rate of Rs. [3][150] per month;

(*b*) a daily allowance at the rate of Rs. [4][5] for each day of the period of residence for the purpose of attending the session of a Chamber or the meeting of a Committee of such Chamber at the place where such session or meeting is held; and

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1937, Pt. V, p. 36; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1937, Vol. I, pp. 1016-1043, 1045-1066, 1253-1261; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1937, Vol. I, pp. 218-237.

[2] This section was renumbered as 3 (*1*) by Bom. 11 of 1946, s. 2.

[3] These figures were substituted for the figures "75", *ibid.*

[4] This figure was substituted for the figure "3", *ibid.*

*The amendments made by this Act shall be deemed to have been made on and to have effect from the 3rd day of April 1946.

(*c*) a travelling allowance for journey undertaken for the said purpose to such place and for return journey from such place—

(*i*) at such rate not exceeding double the fare of such class provided on railway or steamer, as may be prescribed by the Provincial Government, and

(*ii*) at such rate per mile for journey by road, sea or river in addition to the journey by railway or steamer, as may be prescribed by the Provincial Government:

Provided that nothing in this [1][sub-section] shall entitle a member to daily and travelling allowances, if such member ordinarily resides or carries on business at the place where the session of the Chamber or the meeting of the Committee is held.

[2][(*2*) Notwithstanding anything contained in sub-section (*1*) there shall be paid to each Member a conveyance allowance at the rate of Rs. 3 per day for each day on which he attends the session of a Chamber or the meeting of a Committee of such Chamber.]

Minister, President or Speaker or Parliamentary Secretary not entitled to salary or allowances under this Act.

4. Notwithstanding anything contained in this Act, a Minister, the President or Speaker or a Parliamentary Secretary shall not be entitled to any salary or travelling allowance under this Act by reason of the fact that such Minister, President or Speaker, or a Parliamentary Secretary is a Member.

Power of Provincial Government to make rules.

5. (*1*) As respects all matters for which no express provision has been made in this Act the Provincial Government may make rules for the purpose of carrying out the purposes of this Act.

(*2*) Rules made under this section shall have effect as if enacted in this Act.

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[1] This word was substituted for the original by Bom. 11 of 1946, s. 2.
[2] This sub-section was added, *ibid.*

The Bombay Ministers' Salaries Act, 1937 (Bom. IV of 1937), at pages 2055-2058 has been repealed by the Bombay Ministers' Salaries and Allowances Act, 1952 (Bom. VII of 1952), section 15.

THE INDIAN LIMITATION (BOMBAY AMENDMENT) ACT, 1937.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of First Schedule to Act IX of 1908.
3. Period of limitation for pending suits.

BOMBAY ACT No. VI OF 1937.[1]

[THE INDIAN LIMITATION (BOMBAY AMENDMENT) ACT, 1937.]

[*15th January 1938.*]

An Act to amend the Indian Limitation Act, 1908, in its application to the Province of Bombay.

IX of 1908. WHEREAS it is expedient to amend the Indian Limitation Act, 1908, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Limitation (Bombay Amendment) Act, 1937.

Amendment of First Schedule to Act IX of 1908. IX of 1908. **2.** In the First Schedule to the Indian Limitation Act, 1908, hereinafter called "the said Schedule"—

(*i*) Article 5 shall be repealed; and

(*ii*) After Article 64, the following new Article shall be inserted, namely:—

"64A.—Under the summary procedure referred to in section 128 (2) (*f*) of the Code of Civil Procedure, 1908, where the provision of such summary procedure does not exclude the ordinary procedure in such suits and under Order XXXVII of the said Code.	Three years.	When the debt or liquidated demand becomes payable or when the property becomes recoverable."

V of 1908.

Period of limitation for pending suits. **3.** Notwithstanding anything contained in section 2 of this Act, every suit of the nature specified in the said section pending at the date of the commencement of this Act either in a Court of first instance or of appeal shall be deemed to be governed by Article 5 in the said Schedule as if it had not been repealed.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1937, Pt. V, pp. 32-33; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1937, Vol. I, pp. 1014-1016; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1937, Vol. I, pp. 176-177.

THE BOMBAY PROVISIONAL COLLECTION OF TAXES ACT, 1938.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Definitions.
3. Power to make declarations under this Act.
4. Effect of declarations under this Act, and duration thereof.
5. Certain refunds to be made when declarations cease to have effect.

BOMBAY ACT No. IV OF 1938.[1]

[THE BOMBAY PROVISIONAL COLLECTION OF TAXES ACT, 1938.]

[*3rd February 1938.*]

An Act to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes.

WHEREAS it is expedient to provide for immediate effect being given for a limited period to provisions in Bills relating to the imposition or increase of taxes. ; It is hereby enacted as follows :—

1. This Act may be called the Bombay Provisional Collection of Taxes Act, 1938. Short title

2. In this Act— Definitions.

(*1*) a " declared provision " means a provision in a Bill in respect of which a declaration has been made under section 3 ;

(*2*) " tax " includes any rate, cess, duty, fee, toll or other impost, whether general or local or special.

3. Where a Bill to be introduced in the Bombay Legislative Assembly on behalf of the Provincial Government provides for the imposition or increase of a tax, the Provincial Government may cause to be inserted in the Bill a declaration that it is expedient in the public interest that any provision of the Bill relating to such imposition or increase shall have immediate effect under this Act. Power to make declarations under this Act.

4. (*1*) A declared provision shall have the force of law from 5 p.m. (Standard Time) on the day on which the Bill containing it is introduced or published whichever day is earlier. Effect of declarations under this Act, and duration thereof.

(*2*) A declared provision shall cease to have the force of law under the provisions of this Act—

(*a*) when it comes into operation as an enactment, with or without amendment, or

(*b*) when the Provincial Government, in pursuance of a motion passed by the Bombay Legislative Assembly, directs, by notification in the Official Gazette, that it shall cease to have the force of law, or

(*c*) if it has not already ceased to have the force of law under clause (*a*) or clause (*b*), then on the expiry of the sixtieth day after the day on which the declared provision has the force of law under sub-section (*1*).

5. (*1*) Where a declared provision comes into operation as an enactment in an amended form before the expiry of the sixtieth day after the day on which such provision has the force of law under sub-section (*1*) of section 4, refunds shall be made of all taxes collected which would not have been collected if the provision adopted in the enactment had been the declared provision : Certain refunds to be made when declarations cease to have effect.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1937, Pt. V, p. 110 ; for Proceedings in the Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 2, pp. 46-53 and 319-322 ; and for Proceedings in the Council, *see* Bombay Legislative Council Debates, 1938, Vol. 2, pp. 15-27 and 179.

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Provided that the rate at which refunds of any tax may be made under this sub-section shall not exceed the difference between the rate of such tax proposed in the declared provision and the rate in force immediately prior to the day on which the declared provision has the force of law under sub-section (*1*) of section 4.

(*2*) Where a declared provision ceases to have the force of law under clause (*b*) or clause (*c*) of sub-section (*2*) of section 4, refunds shall be made of all taxes collected which would not have been collected if the declaration in respect of it had not been made.

BOMBAY ACT No. XV OF 1938.[1]

[THE INDIAN LUNACY (BOMBAY AMENDMENT) ACT, 1938.]

[*24th June 1938.*]

An Act to amend the Indian Lunacy Act, 1912,[2] in its application to the Province of Bombay.

IV of 1912. WHEREAS it is expedient to amend the Indian Lunacy Act, 1912, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Indian Lunacy (Bombay Amendment) Act, 1938.

IV of 1912. Insertion of new section 33A in Act IV of 1912. **2.** In the Indian Lunacy Act, 1912, after section 33, the following new section shall be inserted, namely:—

Temporary release of lunatics. "33A. (*1*) When any relative or friend of a lunatic detained in any asylum under the provisions of section 7, 10, 14, 15 or 17 is desirous that such lunatic shall be temporarily released and delivered over to his care and custody, he may make an application to the person in charge of the asylum, who shall make an order forthe temporary release of such lunatic for a period not exceeding sixty days, unless for any reason he considers that such release is undesirable and such lunatic shall, thereupon, be so released.

(*2*) No order under sub-section (*1*) for the temporary release of a lunatic detained under section 7 or 10 shall be passed except on an application of the petitioner on whose petition such lunatic was detained or without the consent in writing of such petitioner:

Provided that, if in any such case, it appears to the person in charge of the asylum that such petitioner refuses, without sufficient reasons, to accord such consent, he shall refer the application made to him under sub-section (*1*), to the magistrate who would have jurisdiction to detain such lunatic under section 7 or 10 and such magistrate may, after making such enquiry as he thinks fit, order the temporary release of such lunatic for the period specified in sub-section (*1*).

(*3*) Any order made for the release of a lunatic under sub-section (*1*) may, on the application of any relative or friend, at any time during the period of his release, be set aside, or varied by the magistrate who would have jurisdiction to detain such lunatic in an asylum under section 7, 10, 14, 15 or 17 on any ground other than that the lunatic was not in a state of mind fit to be released at the time the order for his release was made under sub-section (*1*). If the order of release is so set aside, the lunatic shall be re-admitted and detained in the asylum.

(*4*) If a lunatic released under sub-section (*1*) or (*2*) is, at any time during the period of his release, found to be unmanageable or dangerous and unfit to be at large, the person who applied for his release may take the lunatic to the asylum, and such lunatic shall thereupon be readmitted and detained in the asylum.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 301 and 302; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, pp. 1814–1828, 1918, 1954–1961 and 2565; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, pp. 319–321.

[2] *See* Unrepealed Central Acts, Vol. VI, p. 118.

(*5*) If a lunatic released under sub-section (*1*) or (*2*) does not return to the asylum at the expiration of the period for which he was released and if no order for his discharge has been passed under section 31 or section 33 or if he is, at any time during the period of his release, found to be unmanageable or dangerous or unfit to be at large and the person who applied for his release states by a written application to the person in charge of the asylum that he is unable to bring him to the asylum such lunatic shall be deemed to have escaped from the asylum and may at any time within one month after the expiration of the said period be re-taken to and detained in the asylum in the manner provided in section 36 :

Provided that such a person shall be deemed to be discharged if on or before the expiry of the period for which he was released, the Board of Visitors is satisfied either (*a*) as a result of investigations conducted by the person in charge of the asylum concerned or (*b*) on receipt of a certificate signed by a medical practitioner that the person may with safety be discharged."

BOMBAY ACT No. XVIII OF 1938.[1]

[THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1938.]

[*27th October 1938.*]

An Act to amend the Land Acquisition Act, 1894,[2] in its application to the Province of Bombay.

I of 1894. WHEREAS it is expedient to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay for the purpose hereinafter appearing; It is hereby enacted as follows :—

Short title. and extent.

1. (*1*) This Act may be called the Land Acquisition (Bombay Amendment) Act, 1938.

(*2*) It shall come into force on such date as the Provincial Government may by notification in the Official Gazette appoint.

Amendment of sections 28 and 34 of Act I of 1894.

I of 1894. 2. In sections 28 and 34 of the Land Acquisition Act, 1894, for the word "six" the word "four" shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*. 1938, Part V, p. 493; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 4, p. 370; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 4, pp. 120 and 121.

[2] *See* Unrepealed Central Acts, Vol. III, p. 481.

THE BOMBAY PROBATION OF OFFENDERS ACT, 1938.

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PREAMBLE.

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4. Power of Court to release certain convicted offenders after admonition.
5. Power of Court to release certain convicted offenders on probation of good conduct.
5A. Report of probation officer before making release, probation or supervision order.
6. Power of Court to require released offender to pay damages and costs and recovery of such damages and costs.
7. Appeal and power of court in appeal and revision.
8. Provision in case of offender failing to observe condition of release.
9. Provisions as to bonds.
10. Appointment of probation officers.
11. Duties of probation officers.
12. Variation of conditions of probation on application by probation officer.
12A. Probation officers to be public servants.
12B. Protection of persons acting in good faith.
13. Power to make rules.
14 Barring of operation of section 562 of Act V of 1898.
15. Saving of the Bombay Children Act and the Bombay Borstal Schools Act.

BOMBAY ACT No. XIX OF 1938.[1]

[THE BOMBAY PROBATION OF OFFENDERS ACT, 1938.]

[*28th October 1938*]

Amended by Bom. 17 of 1945.†
Rep. in part by Bom. 38 of 1947.
Amended by Bom. 23 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 23 of 1951.
,, ,, 8 of 1954.

An Act to provide for the release on probation of offenders.

WHEREAS it is expedient to provide for the release on probation of offenders in certain cases and for other matters incidental thereto; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Probation of Offenders Act, 1938.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) This Act shall come into force in such area and on such date as the [3][State] Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

V of 1898. (*a*) the "Code" means the Code of Criminal Procedure, 1898;

(*b*) "Court" means a Court empowered to exercise powers under this Act;

(*c*) "Probation order" means an order made under sub-section (*1*) of section 5;

(*d*) "recognised society" means a society recognised by the [3][State] Government for the purposes of section 10;

(*e*) "supervision order" means an order made under sub-section (*2*) of section 5; and

(*f*) words and expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

Courts empowered to pass orders under the Act.

3. (*1*) The following courts are hereby empowered to exercise powers under this Act, namely:—

(*a*) the High Court,

(*b*) a Court of Session,

[4]* * *

* * *

(*e*) a salaried Presidency Magistrate,

(*f*) a Magistrate of the first class,

(*g*) any other Magistrate specially empowered in this behalf.

(*2*) The powers conferred under sub-section (*1*) may be exercised by such Courts, whether the case comes before them originally or on appeal or in revision.

(*3*) Where any offender is convicted by a magistrate not empowered to exercise powers under this Act, and such magistrate is of opinion that the powers conferred by section 4 or 5 should be exercised, he shall record his opinion to that effect and submit the proceedings to a Magistrate of the first class [5]* * * forwarding the offender to, or taking bail for his appearance before, such Magistrate, who shall dispose of the case in the manner provided by section 380 of the Code.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938 Part V, pp. 18 and 19; for Report of the Select Committee, *see Bombay Government Gazette*, 1938, Part V, pp. 178-181; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 2, pp. 411-439, 835-848, and also Vol. 3, pp. 2771-2772; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 3, pp. 350-526.

†This Act was repealed and re-enacted and the amendments made by section 9 and Schedule E to the said Act have been continued in force by Bom. 52 of 1947, s. 2.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial", *ibid.*

[4] Clauses (*c*) and (*d*) were deleted by Bom. 23 of 1951, s. 2, Schedule—Part III.

[5] The words "or Sub-Divisional Magistrate" were deleted by Bom. 8 of 1954, s. 2, Schedule—Part III.

Power of Court to release certain convicted offenders after admonition.

4. Notwithstanding anything contained in any enactments for the time being in force in any case in which a person is convicted of any offence punishable with not more than two years' imprisonment or fine or both and no previous conviction is proved against him, the Court by which he is so convicted, may, if it thinks fit having regard—

(*a*) to the age, character, antecedents or physical or mental condition of the offender, and

(*b*) to the nature of the offence or any extenuating circumstances under which the offence was committed.

for reasons to be recorded in writing instead of sentencing him to any punishment, release him after due admonition.

Power of Court to release certain convicted offenders on probation of good conduct

5. (*1*) Notwithstanding anything contained in any enactment for the time being in force, when—

(*a*) any male person is convicted of an offence not punishable with death or transportation for life, or

(*b*) any woman is convicted of an offence of any kind,

if it appears to the Court by which the offender is convicted, that regard being had to the age, character, antecedents or physical or mental condition of the offender, or to the circumstances in which the offence was committed, it is expedient that the offender should be released on probation of good conduct, the Court, may for reasons to be recorded in writing instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period not being less than one year and not exceeding three years as the Court may direct, and in the meantime to keep the peace and be of good behaviour.

[1]* * * * *

(*2*) Where the offender appears to the Court to be under the age of twenty-five years, the Court may for reasons to be recorded in writing make an order, hereinafter called a supervision order, directing that the bond to be entered into under sub-section (*1*) shall contain a condition that the offender shall be under the supervision of a probation officer named in the order during the period specified therein and such other conditions as in the opinion of the Court may be necessary for securing such supervision:

Provided that the period so specified shall not extend beyond the date on which, in the opinion of the Court, the offender shall attain the age of twenty-six years.

(*3*) While making a supervision order the Court may also direct that the bond shall contain such additional conditions with respect to residence, abstention from intoxicants and any other matters which the Court may, having regard to the particular circumstances of the case, consider necessary for preventing a repetition of the same offence or a commission of other offences by the offender.

(*4*) A Court making a supervision order shall furnish the offender with a written statement of the conditions which he is required to observe.

Report of probation officer before making release, probation or supervision order.

[2][**5A.** (*1*) Before making an order of release under section 4, or a probation or supervision order under section 5, the Court may require any probation officer to submit to it a report as to—

(*a*) the character and age of the offender,

(*b*) the antecedents of the offender and the circumstances in which he is living, and

[1] The proviso to section 5(*1*) was deleted by Bom. 38 of 1947, s. 2.

[2] This section was inserted by Bom. 23 of 1949, s. 2.

(*c*) such other matters as may, in the opinion of the Court, require to be taken into consideration before making such order.

(*2*) Any report submitted by the probation officer under sub-section (*1*) shall be treated as confidential :

Provided that the Court may, if it thinks expedient, communicate the substance thereof to the offender and may give the offender an opportunity to produce evidence as may be relevant to the matters stated in the report.]

Power of Court to require released offender to pay damages and costs and recovery of such damages and costs.

6. (*1*) A Court directing the release of an offender under section 4 or section 5 may order the offender to pay such compensation for loss or injury caused to any person by the offence and such costs of the proceedings as the Court thinks reasonable :

Provided that the amount of compensation and costs so awarded shall in no case exceed the amount of fine which the Court could have imposed in respect of the offence.

(*2*) At the time of awarding compensation in any subsequent civil suit relating to the same matter, the Court shall take into account any sum paid or recovered as compensation under sub-section (*1*).

(*3*) The amount ordered to be paid under this section may be recovered as a fine in accordance with the provisions of sections 386 and 387 of the Code.

Appeal and powers and court in appeal and revision.

7. (*1*) Notwithstanding anything contained in the Code except in cases in which the offender has pleaded guilty, or where the order is passed by the High Court, an appeal shall lie from an order of conviction in every case in which an order is passed under section 4 or 5 to the Court to which appeals ordinarily lie under the Code.

(*2*) The Appellate Court or the High Court in the exercise of its powers of revision may pass any such order as it could have passed under the Code, or may set aside an order under section 4 or 5 and in lieu thereof pass sentence on such offender according to law :

Provided that the Appellate Court or the High Court in revision shall not inflict a greater punishment than might have been inflicted by the Court by which the offender was convicted.

Provision in case of offender failing to observe condition of release.

8. (*1*) If the Court before which an offender is bound by his bond under section 5 to appear and receive sentence when called upon, or any Court which could have dealt with the offender in respect of his original offence, has reason to believe that the offender has failed to observe any of the conditions of his bond, it may issue a warrant for his arrest or may, if it thinks fit, issue a summons to the offender and his sureties, if any, requiring him or them to attend before it at such time as may be specified in the summons.

(*2*) The Court before which an offender is brought or appears under sub-section (*1*) may either remand him to custody until the case is heard or admit him to bail, with or without sureties, to appear on the date of hearing.

(*3*) If the Court, after hearing the case, is satisfied that the offender has failed to observe any of the conditions of his bond, including any conditions which may have been imposed under sub-section (*2*) or sub-section (*3*) of section 5, it may forthwith—

(*a*) sentence him for the original offence, or

(*b*) without prejudice to the continuance in force of the bond, impose upon him a fine not exceeding one hundred rupees :

Provided that the Court passing a sentence of fine under clause (*a*) or (*b*) shall take into account the amount of compensation ordered to be paid under section 6.

(*4*) If a fine imposed under clause (*b*) of sub-section (*3*) is not paid within such period as the Court may fix, the Court may sentence the offender for the original offence.

Provisions as to bonds.

9. The provisions of sections 122, 126A, 406A, 514, 514A, 514B and 515 of the Code, shall, so far as may be, apply in the case of sureties given under this Act. V of 1898.

Appointment of probation officers.

10. (*1*) A probation officer named in a supervision order may be—

(*a*) any person appointed to be a probation officer by the Provincial Government, or

(*b*) any person nominated for this purpose with the previous approval of the Provincial Government by a recognised society, or

(*c*) any other person who, in the opinion of the Court, is a fit person to act as a probation officer in the special circumstances of the case.

(*2*) A probation officer named under sub section (*1*) shall be a person who shall possess such qualifications as may be prescribed by rules made in this behalf.

(*3*) A probation officer, in the exercise of his duties under any supervision order, shall be subject to the control of the District Magistrate of the district in which the offender for the time being resides.

(*4*) The Court before which an offender is bound by his bond under section 5 to appear and receive sentence when called upon, may at any time appoint another probation officer in place of the person named in the supervision order.

[1][*Explanation.*—In this section, in the Greater Bombay, "District Magistrate" means the "Chief Presidency Magistrate", and "district" means the area comprising the Greater Bombay.]

Duties of probation officers.

11. A probation officer shall, subject to the provisions of section 10 and rules made under this Act—

(*a*) visit or receive visits from the offender at such reasonable intervals as may be specified in the supervision order or, subject thereto, as the probation officer may think fit;

(*b*) see that the offender observes the conditions of the bond;

(*c*) report to the Court as to the behaviour of the offender;

(*d*) advise, assist and befriend the offender, and, when necessary, endeavour to find him suitable employment; and

(*e*) perform any other duty which may be prescribed by rules made under this Act.

Variation of conditions of probation on application by probation officer.

12. (*1*) The Court before which any person is bound by a bond under section 5 to appear and receive sentence may at any time upon the application of the probation officer or of its own motion, if it thinks that it is expedient that the terms or conditions of the bond should be varied, summon the offender to appear before it, and, if he fails to show cause why such variation should not be made, vary the terms of the bond by extending or diminishing the duration thereof or by altering any of the conditions thereof or by inserting additional conditions therein:

Provided that, in no case, shall the duration of the bond be less than one year or more than three years from the date of the original order and where a supervision

[1] This explanation was substituted for the original by Bom. 17 of 1945, s. 9 and Sch. E, read with Bom. 52 of 1947, s. 2, proviso.

order has been made under sub-section (*2*) of section 5, the duration of the period of supervision extend beyond the date on which, in the opinion of the Court, the offender shall attain the age of 26 years :

Provided further that in the case of a bond with a surety or sureties, no such variations shall be made without the consent thereto of such surety or sureties and that in the absence of such consent the Court shall in all such cases require the offender to enter into a new bond with or without sureties.

(*2*) Such Court may also, on the application made by the probation officer or of its own motion, on being satisfied that the conduct of the offender has been such as to make it unnecessary that he should be kept any longer under supervision, discharge the bond.

[1][**12A.** All probation officers acting under any of the provisions of this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. Probation officers to be public servants.

XLV of 1860.

12B. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act]. Protection of persons acting in good faith.

13. (*1*) The Provincial Government may make rules for the purpose of carrying into effect the provisions of this Act. Power to make rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules—

(*a*) regulating the appointment, resignation and removal of probation officers and prescribing the qualifications of such officers ;

(*b*) prescribing and regulating the duties of probation officers ;

(*c*) regulating the remunerations and expenses payable to probation officers ; and

(*d*) specifying conditions on which societies may be recognised for the purposes of clause (*b*) of sub section (*1*) of section 10.

(*3*) All rules made under this section shall be subject to the condition of previous publication.

14. In any area in which this Act is in force, no Court shall make an order under section 562 of the Code in respect of any first offender. Barring of operation of section 562 of Act V of 1898.

Bom. XIII of 1924. Bom. XVIII of 1929.

15. Nothing in this Act shall affect the provisions of the [2]Bombay Children Act, 1924, or the Bombay Borstal Schools Act, 1929. Saving of the Bombay Children Act and the Bombay Borstal Schools Act.

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[1] These sections were inserted by Bom. 23 of 1949, s. 3.

[2] See now the Bombay Children Act, 1948 (Bom. 71 of 1948).

THE COTTON GINNING AND PRESSING FACTORIES (BOMBAY AMENDMENT) ACT, 1938.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Amendment of section 3A of Act XII of 1925.
3. Insertion of new section 3AA in Act XII of 1925.
4. Amendment of section 3B of Act XII of 1925.

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BOMBAY ACT No. XX OF 1938.[1]

[THE COTTON GINNING AND PRESSING FACTORIES (BOMBAY AMENDMENT) ACT, 1938.]

[*21st November 1938.*]

An Act to amend the Cotton Ginning and Pressing Factories Act, 1925,[2] in its application to the Province of Bombay.

XII of 1925. WHEREAS it is expedient to amend the Cotton Ginning and Pressing Factories Act, 1925, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title. **1.** This Act may be called the Cotton Ginning and Pressing Factories (Bombay Amendment) Act, 1938.

Amendment of section 3A of Act XII of 1925. **2.** In section 3A of the Cotton Ginning and Pressing Factories Act, 1925, hereinafter called the said Act—

(*1*) in clause (*a*) of sub-section (*2*) after the words "foreign substance", the words "or cotton waste" shall be inserted;

(*2*) sub-section (*3*) shall be deleted.

Insertion of new section 3AA in Act XII of 1925 **3.** After section 3A of the said Act, the following new section shall be inserted:—

Penalty for making any cotton wet. "3AA. Any owner of cotton who knowingly makes or causes to be made any cotton which is ginned and which is being or is intended to be pressed in a cotton pressing factory, wet, or mixes or causes to be mixed seed, foreign substance or cotton waste with such cotton, or in any area specified in sub-section (*1*) of section 3A makes any admixture of cotton, or abets or knowingly allows or connives at any such act shall, on conviction, be punishable with fine which may extend to five thousand rupees."

Amendment of section 3B of Act XII of 1925. **4.** In section 3B of the said Act, after the word, figure and letter "section 3A", the words, figure and letters "or section 3AA" shall be inserted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 444 and 445; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 4, pp. 368-370, and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 4, pp. 115-120.

[2] *See* Unrepealed Central Acts, Vol. VIII, p. 155.

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THE BOMBAY FORFEITED LANDS RESTORATION ACT, 1938.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, commencement and extent.
2. Definitions.
3. Constitution of Tribunal.
4. Declaration that land is needed for restoration.
5. Notice to persons interested.
6. Power to require and enforce the making of statements, etc.
7. Inquiry by Tribunal and Award.
8. Procedure before Tribunal.
9. Amount of compensation.
10. Payment of amount awarded.
11. Arrangement instead of money compensation.
12. Award or arrangement to be final and conclusive.
13. Possession of land to be taken after declaration and land to vest absolutely in Provincial Government.
14. Rules.

BOMBAY ACT No. XXII OF 1938.[1]

[THE BOMBAY FORFEITED LANDS RESTORATION ACT, 1938.]

[*29th November 1938.*]

An Act to provide for the restoration of lands forfeited during the Civil Disobedience Movement for the non-payment of land revenue and other sums due to Government.

WHEREAS certain lands were forfeited as a result of the Civil Disobedience Movement for the non-payment of land revenue and other sums due to Government; And whereas the said lands were disposed of to certain persons for inadequate consideration; And whereas it is just and expedient to acquire them with a view to restore them to the original holders thereof; It is hereby enacted as follows :—

Short title, commencement and extent.

1. (*1*) This Act may be called the Bombay Forfeited Lands Restoration Act, 1938.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on such date as the Provincial Government may, by notification in the Official Gazette, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) " Forfeited land " means any of the lands forfeited to the Crown during the Civil Disobedience Movement in any of the years 1930 to 1934 for non-payment of land revenue or other sums due to Government and specified in the notification published in the Official Gazette by the Provincial Government within six months from the date on which this Act comes into force. The expression " Forfeiture of lands " shall be construed accordingly.

(*2*) " Original holder " in relation to any forfeited land means a person who owned the land at the time of its forfeiture and includes his heirs.

(*3*) " Prescribed " means prescribed by rules.

(*4*) " Tribunal " means the Tribunal constituted under section 3.

(*5*) " Rules " means rules made under section 14.

(*6*) Words and expressions not defined in this Act but defined in the Land Acquisition Act, 1894, shall have the meanings assigned to them in that Act.

I of 1894.

Constitution of Tribunal.

3. For the purposes of this Act, the Provincial Government shall constitute a Tribunal consisting of such member or members as the Provincial Government may appoint. If the Tribunal consists of one member, such member, and if it consists of more than one member, the President, shall be a person who is or has been a Judge of a High Court.

Declaration that land is needed for restoration.

4. (*1*) The Provincial Government, if it is satisfied that any of the forfeited lands is needed for a public purpose and should, therefore, in public interest be acquired and restored to the original holder, may make a declaration that the said land is needed for such purpose.

(*2*) The declaration shall be published in the Official Gazette and shall state all the material particulars in regard to the said land.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 551 and 552; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 4, pp. 2827-2898, 2902-2984, and 2988-3065; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938 Vol. 4, pp. 304-363.

(*3*) Such declaration shall be conclusive evidence that the said land is needed for such purpose.

Notice to persons interested

5. (*1*) On the publication of the declaration under section 4, the Tribunal shall cause public notice to be given at convenient places at or near the land to be acquired stating that the Provincial Government intends to acquire the said land.

(*2*) Such notice shall also state the particulars of the said land and shall require all persons interested in the said land to appear personally or by agent before the Tribunal at the time and place therein mentioned (such time not being earlier than one month after the date of publication of the notice) and to state the nature of their respective interests in the said land and the amount and particulars of their claims to compensation for such interest.

(*3*) The Tribunal shall also serve notice by registered post to the same effect on the occupier, if any, of such land and on all persons known or believed to be interested therein.

(*4*) The original holder of the land and the Collector shall also be served with a notice by registered post intimating to them the time and place of the enquiry by the Tribunal and shall be entitled to appear in such enquiry either personally or by agent.

Power to require and enforce the making of statements, etc.

6. (*1*) The Tribunal may also by notice in writing require any person interested in the land to make or deliver to it at the time and place mentioned (such time not being earlier than one month from the date of such notice) a statement containing, so far as may be practicable, the name of any other person interested in the land or any part thereof as co-proprietor, sub-proprietor, mortgagee, tenant or otherwise, and particulars regarding the nature of such interest and the rents and profits, if any, received or receivable on account thereof.

(*2*) Every person required to make or deliver a statement under this section or under section 5 shall be deemed to be legally bound to do so within the meaning of sections 175 and 176 of the Indian Penal Code. XLV of 1860

Inquiry by Tribunal and Award.

7. (*1*) On the day fixed in the notice given by the Tribunal under section 5 or any other day to which the inquiry may be adjourned, the Tribunal shall proceed to enquire regarding—

(*i*) the amount of compensation to be awarded for the land ; and

(*ii*) the respective interests of the persons claiming compensation.

(*2*) The Tribunal shall then make an award stating the amount of compensation which in its opinion should be awarded for the land. Such award shall be in writing and where there are several persons interested in the land, the award shall also state the amount of compensation to be awarded to each.

Procedure before Tribunal.

8. Save as otherwise provided by or under this Act, the provisions of the Code of Civil Procedure, 1908, shall, so far as may be, apply to any enquiry before the Tribunal under this Act. V of 1908

Amount of compensation.

9. (*1*) Subject to the provisions of sub-sections (*3*), (*4*) and (*5*), the amount of compensation to be awarded for the land shall, after making deductions in respect of matters specified in sub-section (*2*), be—

(*a*) the amount paid to the Provincial Government as occupancy price for the land,

(*b*) the amount of expenditure incurred in making improvements on the land after its disposal by the Provincial Government until the date of the declaration under section 4,

(*c*) the amount of land revenue paid in respect of the land after its disposal by the Provincial Government until the date of the award, and

(*d*) interest at the rate of 4 per cent. per annum on the amounts mentioned in (*a*), (*b*) and (*c*) until the date of the award.

(*2*) In determining the amount of the compensation to be awarded, the Tribunal shall make deductions in respect of the following matters, namely:—

(*a*) the profits, if any, received by the holder for the time being from the land during the period mentioned in clause (*c*) of sub-section (*1*), and

(*b*) any damage resulting from any act, permanently injurious or destructive to the land, committed by the holder for the time being or any person acting on his behalf during the period mentioned in clause (*c*) of sub-section (*1*):

Provided that the amount of compensation to be awarded under sub-section (*1*) shall not in any case be less than the total of the amount mentioned in clauses (*a*) and (*b*) of the said sub-section.

(*3*) If the holder for the time being, within 15 days from the date of the publication of the notice under section 5, intimates in writing to the Collector that he is willing to receive as compensation a sum equal to the amounts mentioned in clauses (*a*) and (*b*) of sub-section (*1*) together with the interest thereon at the rate and for the period mentioned in clause (*d*) of the said sub-section, the amount of compensation to be awarded for the land shall be the said sum without making any deductions therefrom in respect of any of the matters mentioned in sub-section (*2*).

(*4*) In cases where the holder for the time being is not the person to whom the land was disposed of by the Provincial Government but has purchased the land in good faith and for consideration before the first day of April 1938, the amount of compensation to be awarded shall be—

(*a*) the amount paid by such holder as price for the land, and

(*b*) the amount of expenditure incurred by such holder in making improvements on the land until the date of the declaration under section 4.

(*5*) In cases where the land is subject to any mortgage or charge which has been made or created in favour of a person who has advanced money in good faith, the amount of compensation to be awarded to such person shall be—

(*a*) the unpaid balance of the principal advanced, and

(*b*) if such person is not in possession of the land, the unpaid amount of interest payable on the principal at such rate as may have been specified in the instrument of mortgage or charge but not exceeding 7½ per cent. per annum.

Nothing in this sub-section shall bar the right of such person to enforce his rights against the mortgagor or the person who created the charge in respect of the balance due to him.

(*6*) In addition to the amount of compensation awarded under sub-section (*1*), (*3*), (*4*) or (*5*), as the case may be, the Tribunal shall in every case award a sum of 15 per cent. on the said amount.

Explanation.—For the purposes of this section " holder for the time being " means the person who is the owner of the land on the date of the declaration under section 4.

10. (*1*) After the award is made, the Collector shall tender payment of the amount awarded to the persons entitled thereto according to the award and shall pay it to them unless prevented by any of the contingencies mentioned in sub-section (*2*). Payment amount awarded.

(*2*) If such persons do not consent to receive it or if any of them is under any legal disability and there is no person competent to receive it on his behalf, the amount awarded or part thereof, as the case may be, shall remain in deposit with the Collector for a period of three years from the date of the deposit or from the date when the person entitled to receive it ceases to be under a legal disability, as the case may be. After the expiry of the said period, such amount, if not paid, shall lapse and shall be credited to the revenues of the Province.

Arrangement instead of money compensation.

11. Notwithstanding anything contained in this Act, the Tribunal may, with the sanction of the Provincial Government, instead of awarding money compensation in respect of any land, make any arrangement with the person having interest in such land either by grant of another land in exchange or in such other way as may be equitable.

Award or arrangement to be final and conclusive.

12. The award made by the Tribunal under section 7 or any arrangement arrived at under section 11 shall be final and binding on all persons interested in the land.

Possession of land to be taken after declaration and land to vest absolutely in Provincial Government.

13. (*1*) After the expiration of fifteen days from the publication of the notice under section 5, the Provincial Government may, at any time, direct the Collector to take possession of the land mentioned in the declaration under section 4. On such direction being given the Collector shall take possession of the land.

(*2*) If at the time of taking possession of the land under sub-section (*1*), there are any standing crops on the land, the Collector shall offer to the persons interested such compensation as is in his opinion reasonable for the said crops. The decision of the Collector regarding the amount of such compensation shall subject to the provisions of sub-section (*3*) be final. In case, such offer is not accepted, the Collector shall keep the amount of such compensation in deposit and the provisions of sub-section (*2*) of section 10 shall, so far as may be, apply to such deposit.

(*3*) Any person aggrieved by the decision of the Collector regarding the amount of compensation under sub-section (*2*) may within fifteen days from the date of the said decision appeal to the Tribunal. The decision of the Tribunal in such appeal shall be final.

(*4*) Such land shall, on its possession being taken by the Collector under sub-section (*1*), vest absolutely in the Provincial Government free from all encumbrances and the Provincial Government may restore it to the original holder thereof on such terms and conditions as it thinks fit.

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14. The Provincial Government may make rules for the purpose of carrying out the objects of this Act.

THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1938.

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8. Validity of copies made prior to enactment of this Act.

BOMBAY ACT No. XXIV OF 1938.[1]

[THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1938.]

[*8th February 1939.*]

An Act to amend the Indian Registration Act, 1908,[2] in its application to the Province of Bombay.

XVI of 1908. WHEREAS it is expedient to amend the Indian Registration Act, 1908, in its application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Registration (Bombay Amendment) Act, 1938. Short title.

XV. of 1908. **2.** After section 22 of the Indian Registration Act, 1908, hereinafter called the said Act, the following section shall be inserted, namely:— Insertion of new section 22A in Act XVI of 1908.

"22A. (*1*) The Provincial Government may, by notification in the Official Gazette, declare that the registration of any document or class of documents is opposed to public policy. Documents registration of which is opposed to public policy.

(*2*) Notwithstanding anything contained in this Act, the registering officer shall refuse to register any document to which a notification issued under sub-section (*1*) is applicable."

3. To section 51 of the said Act, the following new sub-section shall be added, namely:— Amendment of section 51 of Act XVI of 1908.

"(*5*) If, in the opinion of the Registrar, any of the books mentioned in sub-section (*1*) is in danger of being destroyed or becoming illegible wholly or partially, the Registrar may by a written order direct such book or such portion thereof as he thinks fit to be recopied and authenticated in such manner as may be prescribed under section 69, and the copy prepared and authenticated under such direction shall for the purposes of this Act be deemed to have taken the place of and to be the original book or portion, and all references in this Act to the original book or portion shall be deemed to be references to the book or portion so recopied and authenticated."

4. In sub-section (*1*) of section 69 of the said Act,— Amendment of section 69 of Act XVI of 1908.

(*i*) to clause (*g*) the following shall be added, namely:—

"and the manner of recopying such books or portions thereof";

(*ii*) in clause (*gg*)—

(*a*) for the word "and" after the word "negatives" a comma shall be substituted; and

(*b*) the following shall be added at the end, namely:—

"and the procedure generally in the Government Photo Registry"

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 357 and 658; For Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 4, pp. 3715-3718; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 5, pp. 250-252.

[2] *See* Unrepealed Central Acts, Vol. V, p. 433.

Substitution of new section 70B for section 70B in Act XVI of 1908.

5. For section 70B of the said Act the following shall be substituted, namely :—

Definitions.

"70B. In this Part—

(*1*) 'Government Photo Registry' means the office where documents are photographed under the provisions of this Part.

(*2*) 'Manager, Government Photo Registry' means the person in charge of the Government Photo Registry.

(*3*) 'Photo Registrar' means any person appointed by the Provincial Government to perform the duties of Photo Registrar under this Part."

Amendment of section 70D of Act XVI of 1908.

6. In section 70D of the said Act—

(*1*) In sub-section (*1*)—

(*i*) in clause (*b*)—

(*a*) for the word "Photo Registrar" wherever it occurs the words "Manager, Government Photo Registry" shall be substituted;

(*b*) the word "exactly" shall be omitted; and

(*ii*) after the proviso to clause (*c*) the following further proviso shall be inserted, namely :—

"Provided further that in case of documents containing plans or maps, the negatives of such plans and maps may be prepared on paper instead of on films and where the negatives are so prepared, the Photo Registrar shall fix his signature and seal separately to each such negative and print of such plan or map in token of the exact correspondence of the copy to the original map or plan contained in the document as admitted for registration.";

and

(*iii*) to clause (*d*) the following proviso shall be added, namely :—

"Provided that prints of plans or maps contained in documents may either be bound with the prints of such documents or filed separately in such manner as the Inspector General may direct.";

and

(*2*) After clause (*a*) of sub-section (*3*) the following shall be inserted, namely :—

"(*aa*) sub-section (*2*) of section 20 shall be omitted;"

7. After section 70D of the said Act, the following new section shall be inserted namely :— Insertion of new section 70E in Act XVI of 1908.

" 70E. (*1*) Nothing in this Part shall apply to any document which is prepared on a printed or lithographed form or which in the opinion of the registering officer is not in a fit condition to be photographed. Savings.

(*2*) Nothwithstanding anything contained in this Part, in the case of any document containing a map, plan, or trademark label, if the party presenting the document so desires, the registering officer may accept true copies of such map, plan or trademark label and where such true copies are accepted, the map, plan or trademark label shall not be photographed and such copies thereof shall be filed in the appropriate book."

8. Notwithstanding anything contained in the said Act, copies of any of the books mentioned in sub-section (*1*) of section 51 of the said Act or any portion of such book, prepared before the enactment of this Act and authenticated in pursuance of the order of the Registrar or Inspector General shall for the purposes of the said Act be deemed to have taken the place of and to be the original book or portion ; and all references in the said Act to the original book or portion shall be deemed to be references to the book or portion so prepared and authenticated. Validity of copies made prior to enactment of this Act.

THE BOMBAY MEDICAL PRACTITIONERS' ACT, 1938.

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BOMBAY ACT No. XXVI OF 1938.[1]

[THE BOMBAY MEDICAL PRACTITIONERS' ACT, 1938.]

[*1st March 1939*]

Amended by Bom. 33 of 1949.
,, ,, ,, 5 of 1950 †
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 48 of 1951.
,, ,, ,, 13 of 1953.
,, ,, ,, 61 of 1954.*
,, ,, ,, 2 of 1955.

An Act to regulate the qualifications and to provide for the registration of practitioners of [2][Ayurvedic and [3][Unani]] systems of medicine with a view to encourage the study and spread of such systems and to amend the law relating to medical practitioners generally in the Province of Bombay.

WHEREAS it is expedient to regulate the qualifications and to provide for the registration of practitioners of the [2][Ayurvedic and [3][Unani]] systems of medicine with a view to encourage the study and spread of such systems and to amend the law relating to medical practitioners generally; It is hereby enacted as follows :—

PART I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act shall be called the Bombay Medical Practitioners' Act, 1938.
(*2*) It extends to the whole of the [4][State] of Bombay.
(*3*) Parts I and II of this Act shall come into force on such date as the [5][State] Government may by notification in the *Official Gazette* appoint. Part III shall come into force in all municipal, cantonment and notified areas in the [4][State] on the expiry of two years and in all other areas on the expiry of five years from the date on which Parts I and II come into force in the respective areas.

PART II

[6][AYURVEDIC AND [3][UNANI]] SYSTEMS OF MEDICINE.

Definitions.

2. In this Part of the Act, unless there is anything inconsistent in the subject or context —

(*1*) " Board " means the Board of [6][Ayurvedic and [3][Unani]] systems of medicine, Bombay, established and constituted under section 3.

[7][(*1A*) " By-law " means by-law made under section 28A.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 273-277 ; for Report of the Select Committee, *see Bombay Government Gazette*, 1938, Part V, pp. 512-523 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1938, Vol. 3, Part II, pp. 1455-1500, 1523-1552, 1577-1582, Vol. 4, *ibid.*, pp. 32-36, 1450, 3843-3899 ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1938, Vol. 4, pp. 192-195, Vol. 5, *ibid.*, pp. 252-273, and 275-324 and 344.

[2] These words were substituted for the word " Indian " by Bom. 5 of 1950, s. 2.

[3] This word was substituted for the words " Unani Tibbi " by Bom. 61 of 1954, s. 2.

[4] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the word " Provincial ", *ibid.*

[6] These words were substituted for the word " Indian " by Bom. 5 of 1950, s. 3.

[7] These clauses were inserted by Bom. 33 of 1949, s. 2.

† Sections 12 and 13 of Bom. 5 of 1950 read as under :—

Construction of references in enactments, rules, regulations, orders, etc.

12. References in any enactment, rule, regulation, order, notification, by-law, application or instruments in force on the day immediately before the coming into force of this Act to " the Board of Indian Systems of Medicine, Bombay " and to " the Faculty of Indian Systems of Medicine, Bombay " shall respectively be construed as references to " the Board of Ayurvedic and Unani Tibbi Systems of Medicine, Bombay " and to " the Faculty of Ayurvedic and Unani Tibbi Systems of Medicine, Bombay ".

Suits and proceedings.

13. If at the commencement of this Act any legal proceedings are pending to which the Board of Indian Systems of Medicine, Bombay, or the Faculty of Indian Systems of Medicine, Bombay, is a party, the Board of Ayurvedic and Unani Tibbi Systems of Medicine, Bombay, and the Faculty of Ayurvedic and Unani Tibbi Systems of Medicine, Bombay, shall, respectively be deemed to be substituted therefor.

*See sections 11 to 13 of Bom. 61 of 1954.

(*1B*) "Faculty" means the Faculty of [1][Ayurvedic and [2][Unani]] systems of medicine, Bombay, established and constituted under section 3A.]

[3][(*2*) "Ayurvedic and [2][Unani] systems of medicine" means the Ayurvedic system of medicine and the [2][Unani] system of medicine.

(*2A*) "Ayurvedic system of medicine" or "the Ayurvedic system" means the Ayurvedic (including the Siddha) system of medicine whether supplemented or not by such modern advances as the Faculty may from time to time have determined.

(*2B*) "[2][Unani] system of medicine" or "[2][Unani] system" means the [2][Unani] system of medicine whether supplemented or not by such modern advances as the Faculty may from time to time have determined.]

(*3*) "Inspector" means an Inspector appointed by the [4][Faculty] under section 22.

[5][(*3A*) "List" means a list of practitioners prepared and kept under section 18.]

(*4*) "Part" means a Part of this Act.

(*5*) "Practitioner" means practitioner of the [6][Ayurvedic system of medicine or [2][Unani] system of medicine].

(*6*) "President" means the President of the Board.

(*7*) "Qualifying Examination" means [7][an examination specified in the Schedule].

[8][(*7A*) "Recognised Institution" means an institution recognised under section 21A.]

[9]* * * * * *

(*8*) "Register" means the Register of practitioners maintained under section 15.

(*9*) "Registered practitioner" means a practitioner whose name is for the time being entered in the Register.

(*10*) "Registrar" means the Registrar appointed under section 14.

[9]* * * * * *

(*11*) "Regulations" means regulations made under section 30.

(*12*) "Rules" means rules made under section 29.

[8][(*13*) "Schedule" means the Schedule appended to this Act.]

Establishment, constitution and incorporation of the Board.

3. (*1*) Subject to the provisions of section 31, the [10][State] Government shall by notification in the *Official Gazette* establish a Board to be called "the Board of [1][Ayurvedic and [2][Unani]] Systems of Medicine, Bombay." [11]* * Such Board shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be sued.

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[1] These words were substituted for the word "Indian" by Bom. 5 of 1950, s. 3.

[2] This word was substituted for the words "Unani Tibbi" by Bom. 61 of 1954, s. 2.

[3] Clauses (*2*), (*2A*) and (*2B*) were substituted for the original clause (*2*) by Bom. 5 of 1950, s. 4(*i*).

[4] This word was substituted for the word "Board" by Bom. 33 of 1949, s. 2.

[5] This clause was inserted by Bom. 33 of 1949, s. 2.

[6] These words were substituted for the words "Indian System of Medicine" by Bom. 5 of 1950, s. 4(*ii*).

[7] These words were substituted for the words "the examination held for the purpose of granting a diploma conferring the right of registration under this Act" by Bom. 33 of 1949, s. 2.

[8] This clause was inserted, *ibid.*

[9] Clauses (*7B*) and (*10A*) were deleted by Bom. 6 of 1954, s. 3.

[10] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[11] The words "for the purpose of carrying out the provisions of this Part" were deleted by Bom. 33 of 1949, s. 2.

(*2*) The Board shall consist of [1][fourteen] members, who shall be appointed in the following manner, namely :—

[2][(*i*) A President nominated by the [3][State] Government ;

(*ii*) Five members nominated by the [3][State] Government, out of whom—

(*a*) one shall be a person residing in the [4][State] or in areas over which the [3][State] Government has jurisdiction under the Extra Provincial Jurisdiction Act, 1947, and practising in the Ayurvedic [5]* * * system of medicine, and

XLVI of 1947.

(*b*) one shall be a person residing in the [4][State] or areas referred to in clause (*a*) and practising in the [6][Unani] system of medicine ;

(*iii*) Six members elected by the registered practitioners from amongst themselves ; and

(*iv*) Two members elected by the Faculty who shall be persons other than those appointed under any of the preceding clauses].

(*3*) The seats of members elected under clause (*iii*) of sub-section (*2*) shall be so divided amongst the Ayurvedic and [6][Unani] registered practitioners as to be in the proportion of their numbers on the Register on the date of the election :

Provided that in determining the said proportion a fraction of one-half and less shall be neglected and a fraction of more than one-half shall be counted as one :

[7]* * * * * * *

[8][**3A.** There shall be a Faculty of [9][Ayurvedic and [6][Unani]] Systems of Medicine, Bombay. The Faculty shall be a body corporate and have perpetual succession and a common seal and may by the said name sue and be sued. The Faculty shall consist of fourteen members appointed in the following manner, namely :— Faculty.

(*1*) The President shall be the ex-officio chairman ;

(*2*) Six members nominated by the [3][State] Government out of whom at least two shall be registered practitioners ;

(*3*) Two members elected from amongst themselves by the principals or heads of recognised institutions :

Provided that at least one of them shall be a person who holds any of the qualifications specified in the Schedule.

(*4*) Three members elected from amongst themselves by recognised teachers (other than the principals or heads of institutions) in recognised institutions :

Provided that such teachers have been on the roll of a recognised institution for a period of one year immediately preceding the day appointed for election by the [3][State] Government in this behalf :

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[1] This word was substituted for the word " thirteen " by Bom. 33 of 1949, s. 3.
[2] These clauses were substituted for the original, *ibid.*
[3] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[4] This word was substituted for the word " Province ", *ibid.*
[5] The brackets and words " (including Siddha) " were deleted by Bom. 5 of 1950, s. 5.
[6] This word was substituted for the words " Unani Tibbi " by Bom. 61 of 1954, s. 2.
[7] The second proviso to sub-section (*3*) and sub-section (*4*) and the Explanation were deleted by Bom. 33 of 1949, s. 3.
[8] This section was inserted, *ibid.*, s. 4.
[9] These words were substituted for the word " Indian " by Bom. 5 of 1950, s. 2.

Provided also that out of the three members so elected by such teachers, at least one shall be a registered practitioner, and another who shall hold any of the qualifications specified in the Schedule.

(*5*) Two members elected by the Board who shall be persons other than those appointed under any of the preceding clauses, but one of whom shall be a registered practitioner in the [1][Unani] system :

Provided that—

(*a*) if there are one or more recognised institutions giving instruction in the full course of [1][Unani] system, the number of members to be elected under clause (*3*) shall be three, one of whom shall be the principal or head of such institution, the total number of the members of the Faculty being in that case increased to fifteen ;

(*b*) the Faculty shall always contain at least two members who are entitled to represent the [1][Unani] system under this section.

Explanation.—If any question arises whether a particular person is entitled to represent the [1][Unani] system, the decision of the [2][State] Government shall be final.]

Nomination of members in default of election.

4. If any of the members is not elected under [3][section 3 or 3A], the [2][State] Government may [4]* * * nominate such registered practitioners as they deem fit and the practitioners so nominated shall for the purposes of this Part be deemed to have been duly elected under [3][section 3 or 3A, as the case may be].

Election of members.

5. The election of practitioners entitled to be the members of the Board [5][and the Faculty] shall be held at such time and place and in such manner as may be prescribed by rules :

[6][Provided that in the case of the members of the Faculty to be elected by the Board and of the members of the Board to be elected by the Faculty the other members of the Board or the Faculty, as the case may be, shall, as soon as may be, after their election or nomination, meet to hold the election.]

Term of office.

6. (*1*) Save as otherwise provided by this Part—

[7][(*a*)] the term of office of elected and nominated members [8][of the Board] shall be for a period of five years commencing from the date on which the first meeting of the Board is held after the members are elected under sub-section (*2*) of section 3 ;

[9][(*b*) the term of office of elected and nominated members of the Faculty shall expire on the date on which the term of the Board expires under this section.]

(*2*) An outgoing member shall continue in office until the election or nomination of his successor, as the case may be.

(*3*) The outgoing member shall be eligible for re-nomination or re-election.

Vacancies.

7. If a vacancy occurs in the office of a member of the Board [10][or the Faculty] through death, resignation, removal or disability of such member or otherwise, previous to the expiry of the period of his office, the vacancy shall be filled in the

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[1] This word was substituted for the words " Unani Tibbi " by Bom. 61 of 1954, s. 2.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] These words, figures and letter were substituted for " clause (*iii*) of sub-section (*2*) of section 3 " by Bom. 33 of 1949, s. 5.

[4] The words " notwithstanding anything contained in sub-section (*2*) of the said section " were deleted, *ibid.*

[5] These words were substituted for " under clause (*iii*) of sub-section (*2*) of section 3 ", *ibid.*, s. 6.

[6] This proviso was added, *ibid.*, s. 6.

[7] The brackets and letter " (*a*) " were inserted, *ibid.*, s. 7.

[8] These words were inserted, *ibid.*

[9] This clause was substituted for the proviso , *ibid.*

[10] These words were inserted by Bom. 33 of 1949, s. 8.

manner prescribed by rules. Any person nominated or elected to fill the vacancy shall, notwithstanding anything contained in section 6, hold office only so long as the member in whose place he is nominated or elected, would have held office if the vacancy had not occured.

Resignation of a member.

8. Any member [1][of the Board or the Faculty] may at any time resign his office by letter addressed to the President [1][or the Chairman, as the case may be]. Such resignation shall take effect from the date on which it is received by the President [1][or the Chairman, as the case may be]..

Disabilities for continuing as member.

9. If any member, during the period for which he has been nominated or elected,—

(*a*) absents himself without such reasons as may in the opinion of the Board [2][or the Faculty] be sufficient, from three consecutive ordinary meetings of the Board [2][or the Faculty], or

(*b*) becomes subject to any of the disqualifications mentioned in section 10, the Board [2][or the Faculty, as the case may be,] shall declare his office to be vacant.

Disqualifications.

10. No person shall stand as a candidate for election as a member of the Board [2][or the Faculty] or shall be a member of the Board [3][or the Faculty],—

(*a*) who is an undischarged insolvent,

(*b*) who has been adjudicated by a competent Court to be of unsound mind, or

(*c*) whose name has been removed from the Register.

Validity of proceedings.

11. No disqualification of or defect in the election or nomination of any person acting as a member of the Board [3][or the Faculty] or as the President, [4][or Chairman] or presiding authority of a meeting shall be deemed to vitiate any act or proceeding of the Board [3][or the Faculty, as the case may be], in which such person has taken part.

Time and place of meeting of Board [5][and Faculty.]

12. [6][The Board or the Faculty shall meet] at such time and place and [6][every meeting of the Board and the Faculty] shall be summoned in such manner as may be prescribed by regulations [7][or by-laws, as the case may be] :

Provided that until [6][such regulations or by-laws] are made, it shall be lawful for the President [6][or the Chairman] to summon a m eting of [6][the Board or the Faculty as the case may be,] at such time and place as he may deem expedient by letter addressed to each member.

Procedure at meetings of Board [9][and Faculty.]

13. (*1*) The President shall preside at every meeting of the Board. In the absence of the President the members present shall elect one of them to preside.

[10][(*1A*) The Chairman shall preside at every meeting of the Faculty. In the absence of the Chairman the members present shall elect one of them to preside.

(*2*) All questions at a meeting of the Board [11][or the Faculty] shall be decided by the votes of the majority of the members present at the meeting. Eight members shall form a quorum. No quorum shall be necessary for a meeting adjourned for want of a quorum.

(*3*) At every meeting of the Board [12][or the Faculty] [13][the person presiding] for the time being shall, in addition to his vote as a member of the Board [12][r the Faculty] have a second or casting vote in case of an equality of votes.

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[1] These words were inserted by Bom. 33 of 1949, s. 9.
[2] These words were inserted, *ibid.*, s. 10.
[3] These words were inserted, *ibid.*, ss. 11 and 12.
[4] These words were inserted, *ibid.*, s. 12.
[5] These words were added, *ibid.*, s. 13.
[6] These words were substituted for the original, *ibid.*
[7] These words were added, *ibid.*
[8] These words were inserted, *ibid.*
[9] These words were added *ibid.*, s. 14.
[10] This sub-section was inserted, *ibid.*
[11] These words were inserted, *ibid.*
[12] These words were inserted by Bom. 33 of 1949, s. 14.
[13] These words were substituted for the words "the president", *ibid.*

Power and functions of Board.

[1][**13A.** Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers and functions of the Board shall be,—

(*a*) to appoint the Registrar and other officers and servants and to fix their salaries and allowances;

(*b*) to provide for the registration of practitioners and entry of their names in the list under this Act;

(*c*) to reprimand a registered practitioner or a practitioner whose name is entered in the list or to suspend or remove him from the register or list and to take such other disciplinary action against him as may, in the opinion of the Board be necessary or expedient;

[2][(*cc*) (*i*) to reprimand any person who practises any system of medicine to whom the provisions of section 32 do not apply by virtue of a notification issued under the proviso to sub-section (*1*) of the said section 32;

(*ii*) to suspend or prohibit such person from practising any system of medicine;

(*iii*) to take such other disciplinary action against such person as may in the opinion of the Board be necessary or expedient :

Provided that the Board shall not exercise any power under sub-clause (*ii*) or (*iii*) of this clause except with the previous sanction of the State Government.]

(*d*) to hear and decide appeals from the decisions of the Registrar.]

Powers and functions of Faculty.

[1][**13B.** Subject to such conditions as may be prescribed by or under the provisions of this Act, the powers and functions of the Faculty shall be—

(*a*) to prescribe the course of training and the standard and subjects of qualifying examinations including the course of training and examinations prior to such qualifying examinations;

(*b*) to hold qualifying examinations and other examinations, to appoint examiners, to fix their fees and allowances and to declare the results of examinations;

(*c*) to grant degrees, honoraria, diplomas, licences and marks of honour;

(*d*) to award stipends, scholarships, medals, prizes and other rewards;

(*e*) to recommend recognition to institutions for the purpose of giving instruction [3][either in the Ayurvedic System of Medicine or the [4][Unani] System of Medicine or both] or to recommend their cancellation;

(*f*) to prepare, publish and prescribe text books and to publish statements of prescribed courses of study;

(*g*) to provide for the maintenance of an adequate standard of proficiency for the practice of the [5][Ayurvedic System of Medicine or the [4][Unani] System of Medicine];

(*h*) to found and maintain a library;

(*i*) to recommend schemes for post-graduate training and research in the [6][Ayurvedic and [4][Unani] Systems of Medicine;

(*j*) to provide for the inspection of institutions and to require institutions giving instruction [3][either in the Ayurvedic System of Medicine or the [4][Unani] System of Medicine or both] to furnish such information as may be necessary;

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[1] Sections 13A and 13B were inserted by Bom. 33 of 1949, s. 15.

[2] This clause was inserted by Bom. 61 of 1954, s. 4.

[3] These words were substituted for the words "in the Indian System of Medicine" by Bom. 5 of 1950, s. 6.

[4] This word was substituted for the words "Unani Tibbi" by Bom. 61 of 1954, s. 2.

[5] These words were substituted for the words "Indian System of Medicines" by Bom. 5 of 1950, s. 7.

[6] These words were substituted for the word "Indian", *ibid.*, s. 3.

(*k*) to appoint Inspectors and such other Officers and servants as may be necessary ;

(*l*) to appoint any committees or boards of studies as may be necessary and to lay down their constitution, duties and functions. Such committees or boards may contain members who are not members of the Faculty.]

[1][**13C.** The Board and the Faculty shall also exercise such other powers and perform such other functions as may be prescribed by or under this Act, or as the [7][State] Government may direct for carrying out the purposes of this Act.] Other powers and functions of Board and Faculty.

14. (*1*) The Board shall, with the previous approval of Government, appoint a Registrar. The Registrar shall receive such salary and allowances as may be prescribed by rules. The Board may from time to time grant him leave and may appoint a person to act in his place. Any person duly appointed to act as Registrar shall be deemed to be the Registrar for all the purposes of this Act : Registrar.

[2][Provided that where the period of leave to be granted to the Registrar does not exceed one month, the President may grant such leave.]

(*2*) Any order of the Board appointing, punishing or removing a Registrar from office shall not be passed without the previous approval of the [3][State] Government.

(*3*) The Board may appoint such other officers and servants as may be necessary for the purposes of this Act :

Provided that the number and designations of such officers and servants, their salaries and allowances shall be subject to the previous approval of the [3][State] Government.

(*4*) The Registrar and any other officer or servant appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

15. (*1*) Subject to the provisions of this Part and subject to any general or special orders of the Board, it shall be the duty of the Registrar to keep the Register [4][and the list. It shall also be the duty of the Registrar to attend the meetings of the Board and the Faculty and to perform generally the duties of the Secretary to both the said bodies.] Duties of Registrar.

(*2*) The Register shall be in such form as may be prescribed by rules. The Register shall be divided into the two parts :—

(*i*) that containing the names of practitioners qualified to practise the Ayurvedic system ; and

(*ii*) that containing the names of practitioners qualified to practise the [5][Unani] system.

The Register shall contain the names, residence and qualifications of every practitioner registered together with the date on which such qualification was acquired.

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[1] Section 13B was inserted by Bom. 33 of 1949, s. 15.
[2] This proviso was added by Bom. 33 of 1949, s. 16.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] These words were added by Bom. 33 of 1949, s. 17.
[5] This word was substituted for the words "Unani Tibbi" by Bom. 61 of 1954, s. 2.

(*3*) The Registrar shall keep the Register correct as far as possible and may from time to time enter therein any material alteration in the address or qualification of the practitioners. The names of registered practitioners who die or whose names are directed to be removed from the Register under sub-section (*3*) of section 16 shall be removed from the Register.

(*4*) The [1][State] Government may direct that any alteration in the entries as respects additional qualifications shall not be made unless on payment of such fee as may be prescribed by rules.

[2]* * * * * *

Registration.

16. (*1*) Every person who passes a qualifying examination shall on payment of a fee of Rs. 10 be entitled to have his name entered in the Register.

[3]* * * * * *

(*3*) The Board may direct that the name of any practitioner who has been convicted of a cognizable offence as defined in the Code of Criminal Procedure, 1898, which discloses such defect of moral character as is, in the opinion of the Board, sufficient to make him unfit to practise his profession or who, after due inquiry, has been found guilty of conduct, which is in the opinion of the Board infamous in any professional respect, shall be removed from the Register. The Board may, sufficient cause being shown, also direct that the name of the practitioner so removed shall be re-entered in the Register. V of 1898.

Appeal to Board from the decision of Registrar.

17. (*1*) Any person aggrieved by the decision of the Registrar regarding the registration of any person or any entry in the Register may appeal to the Board.

(*2*) Such appeal shall be filed and shall be heard and decided by the Board in the manner prescribed by the rules.

(*3*) The Board may on its own motion or on the application of any person, after due and proper enquiries and after giving an opportunity to the person concerned of being heard, cancel or alter any entry in the Register, if, in the opinion of the Board, such entry was fraudulently or incorrectly made.

Maintenance of list of persons in practice on 10th March 1938.

18. (*a*) The Registrar shall also prepare and keep a list called "a list of persons in practice on the 10th March 1938".

(*b*) Every person not being a person qualified for registration under this Act or under the Bombay Medical Act, 1912, who, within a period of two years from the date from which this Part comes into force, proves to the satisfaction of the Registrar that he has been in regular practice in this [4][State] on the 10th March 1938, of any system of medicine or surgery or midwifery or any of their branches shall be entitled to have his name entered in the aforesaid list on payment of Rs. 10 : Bom VI of 1912.

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[1] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[2] Sub-section (*5*) was deleted by Bom. 61 of 1954, s. 5. Sub-section (*5*) shall be deemed to have been deleted with effect from 1st June 1954, *see* s. 13 of Bom. 61 of 1954.

[3] Sub-section (*2*) was deleted, by Bom. 33 of 1949, s. 17 and s. 18.

[4] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

Provided, however, that any person whose name has been removed from the Register kept under the Bombay Medical Act, 1912, or the Register kept under an Act of [1]the Legislature of a State in India] or from the register of any country where he was formerly practising, for infamous conduct in a professional respect, shall not be entitled to have his name entered in the list.

Bom. VI of 1912.

(*c*) The provisions of sub-sections (*3*) and (*5*) of section 15, sub-section (*3*) of section 16, and section 17 shall *mutatis mutandis* apply to this list.

Renewal fee.

[2][**18A.** [3][(*1*) Notwithstanding anything contained in section 16 or 18, each medical practitioner shall pay to the Board on or before the 31st day of December 1954 and every three years thereafter a renewal fee of such amount and on or before such date as may be prescribed by rules, for the continuance of his name on the Register or list, as the case may be.]

[4][Provided that the renewal fee due on 31st day of December 1954 may be paid not later than the 31st day of March 1955.]

(*2*) If the renewal fee is not paid before the due date, the Registrar shall remove the name of the defaulter from the Register or list, as the case may be :

Provided that the name so removed may be re-entered in the Register or list on payment of the renewal fee in such manner and subject to such conditions as may be prescribed.].

Qualified practitioners' certificates.

19. Notwithstanding anything in any law for the time being in force—

(*1*) the expression "legally qualified medical practitioner" or "duly qualified medical practitioner" or any word importing a person recognised by law as a medical practitioner or member of medical profession shall in all Acts of Legislature in the [5][State] of Bombay and in all [6][Central Acts] (in their application to the [5][State] of Bombay) in so far as such Acts relate to any of the matters specified in List II or List III in the Seventh Schedule to the [7][Constitution], include a registered practitioner ;

(*2*) A certificate required by any Act from any medical practitioner or medical officer shall be valid, if such certificate has been signed by a registered practitioner ;

(*3*) a registered practitioner shall be eligible to hold any appointment as a Physician, Surgeon or other medical Officer in any Ayurvedic or Unani dispensary, hospital, infirmary or lying-in-hospital supported by or receiving a grant from the [5][State] Government and treating patients according to the Indian systems of medicine or in any public establishment, body or institution dealing with such systems of medicine.

20. [*Notice of death*] Deleted by Bom. 61 of 1954, s. 7.

Examination before registration.

21. [8][Save as otherwise provided by the provisions of this Act [9][the name of any person] shall not be entered in the Register as a registered practitioner, unless he has passed a qualifying examination.

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[1] This portion was substituted for the portion "a Provincial Legislature in British India" by the Adaptation of Laws Order, 1950.

[2] This section was inserted by Bom. 33 of 1949, s. 19.

[3] This sub-section was substituted for the original by Bom. 61 of 1954, s. 6.

[4] This proviso was added by Bom. 2 of 1955, s. 3, Second Schedule; this amendment was given retrospective effect.

[5] This word was substituted for the word "Provincial" and "Province" by the Adaptation of Laws Order, 1950.

[6] These words were substituted for the words "Acts of the Central Legislature", *ibid.*

[7] This word was substituted for the original portion, *ibid.*

[8] These words were substituted for "Notwithstanding anything contained in section 16 on and after the expiry of two years from the date from which this Act comes into force," by Bom. 33 of 1949, s. 20.

[9] These words were substituted for the words "a person", *ibid.*

Recognition of Institutions.

[1][21A. (*1*) Any institution applying for recognition under this Act shall send an application to the Registrar and shall give full information in respect of the following matters :—

(*a*) the constitution and personnel of the managing body ;

(*b*) subjects and courses in which it gives or proposes to give instructions ;

(*c*) accommodation, equipment and the number of students for whom provision has been or is proposed to be made ;

(*d*) the strength of the staff, their salaries, qualifications and the research work made by them ;

(*e*) fees levied or proposed to be levied and the financial provision made for capital expenditure on buildings and equipment and for the continued maintenance and efficient working of the institution.

(*2*) The Registrar shall place the application before the Faculty and the Faculty may direct the Registrar to call for any further information which it may deem necessary. The Faculty may also direct a local inquiry to be made by a competent person or persons authorised by it in this behalf.

(*3*) After recording the report of such local inquiry and after making such further inquiry as may be necessary, the Faculty shall forward the application together with its report to the [2][State] Government stating its opinion whether the recognition asked for should or should not be granted. The [2][State] Government may thereupon grant or refuse the recognition or may grant it subject to such conditions as it deems fit. The decision of the [2][State] Government shall be final]

Qualifying examinations.

22. (*1*) The [3][Faculty shall by by-laws] prescribe the course of training and qualifying examinations including the course of training and examinations prior to qualifying examinations. [3][Such by-laws] shall provide that instruction and examinations shall, as far as possible, be given or held in any of the Indian languages spoken in the [2][State]

(*2*) A qualifying examination shall be an examination in the [4][Ayurvedic system of medicine or the [5][Unani] system of medicine] including the subjects of medicine, surgery and midwifery held [4][by the Faculty] for the purpose of granting [6][a degree or] a diploma conferring the right of registration under this Part [7][and specified in the Schedule ; and such other examination as may on the recommendation of the Faculty be included in the Schedule by the [2][State] Government by a notification in the *Official Gazette* from and after the date specified in the notification.]

(*3*) It shall be the duty of [8][the Faculty] to secure the maintenance of an adequate standard of proficiency for the practice of the [9][Ayurvedic system of medicine or the [5][Unani] system of medicine] including the subjects of medicine, surgery and midwifery. For the purpose of securing such standard, [8][the Faculty] shall have authority to call on the governing body or authorities [10][of any body or institution]

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[1] This section was inserted by Bom. 33 of 1949, s. 21.

[2] This word was substituted for the words " Provincial " and " Province " by the Adaptation of Laws Order, 1950.

[3] These words were substituted for the original by Bom. 33 of 1949, s. 22.

[4] These words were substituted for " Indian systems of medicine " by Bom. 5 of 1950, s. 7.

[5] This word was substituted for the words " Unani Tibbi " by Bom. 61 of 1954, s. 2.

[6] These words were inserted by Bom. 33 of 1949, s. 21.

[7] This portion was substituted for the original, *ibid.*

[8] These words were substituted for the words " the Board ", *ibid.*

[9] These words were substituted for the words " Indian system of medicine " by Bom. 5 of 1950, s. 9.

[10] These words were substituted for the words " of any institution " by Bom. 33 of 1949, s. 22.

giving instruction [1][either in the Ayurvedic system of medicine or the [2][Unani] system of medicine or both] and [3][on any body or institution recognised to hold a qualifying examination under sub-section (*2*) or holding a qualifying examination specified in the Scheduled,]—

(*a*) to furnish such particulars as [4][the Faculty] shall require of any course of study prescribed [5][by by-laws or examination held by such body or institution] with reference to the grant of any qualification; and

(*b*) to permit Inspectors [6][or any member or visitor] appointed by [4][the Faculty] from among the Registered practitioners in this behalf to attend and be present at all or any of the qualifying or prior examinations.

(*4*) The [7][Inspectors, members or visitors] shall not interfere with the conduct of any examination, but it shall be their duty to report to [4][the Faculty] their opinion as to the sufficiency or insufficiency of every examination which they attend and any other matters in relation to such examinations on which [4][the Faculty] may require them to report.

(*5*) Every qualifying examination and every prior examination leading up to it held by the bodies or institutions authorized under this section shall be inspected by [8][the Inspectors, members or visitors] at least once in [9][five] years and more frequently if [4][the Faculty] directs.

(*6*) [4][The Faculty] shall forward a copy of every such report to the body which held the examination in respect of which the said report was made and shall also forward a copy of such report, together with any observations thereon made by the said body, to the [10][State] Government.

(*7*) An Inspector, [11][a member or a visitor] shall receive such remuneration to be paid as part of the expenses of [4][the Faculty], as [4][the Faculty], with the previous sanction of the [10][State] Government, may determine.

Power of Faculty to include other examinations in Schedule.

[12][**22A.** If it shall appear to the [10][State] Government on the report of the Faculty or otherwise that the course of study and examinations prescribed by any body or institution conferring a qualification for an examination not entered in the Schedule are such as to secure the possession by persons obtaining such qualification of the requisite knowledge and skill for the efficient practice of their profession, it shall be lawful for the [10][State] Government from time to time by notification in the *Official Gazette* to direct that the possession of such qualification shall, subject to the provisions of this Act, entitle a person to be so registered under this Part and to include in the Schedule any examination relating to such qualification as a qualifying examination from and after the date specified in the notification.]

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[1] These words were substituted for the words "in the Indian systems of medicine" by Bom. 5 of 1950, s. 9.
[2] This word was substituted for the words "Unani Tibbi" by Bom. 61 of 1954. s. 2.
[3] This portion was substituted for the original by Bom. 33 of 1949, s. 22.
[4] These words were substituted for the words "the Board", *ibid.*
[5] These words were substituted for the words "by regulations or examination held by such body or authority or in such school or college", *ibid.*
[6] These words were inserted, *ibid.*
[7] These words were substituted for the word "Inspectors", *ibid.*
[8] These words were substituted for the words "the Inspectors", *ibid.*
[9] This word was substituted for the word "three", *ibid.*
[10] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[11] These words were inserted by Bom. 5 of 1950, s. 9.
[12] This section was inserted, *ibid*, s. 23.

Removal of institutions authorized to hold qualifying examinations.

23. If it shall appear to the [1][State] Government on the report of [2][the Faculty or otherwise] that the course of study and examinations prescribed by any [3][of the bodies or institutions recognised to hold qualifying examinations under sub-section (*2*) of section 22 or holding examinations specified in the Schedule] are not such as to secure the maintenance of an adequate standard of proficiency for the practice of the [4][Ayurvedic system of medicine or the [5][Unani] system of medicine] including the subject of medicine, surgery or midwifery, as the case may be, it shall be lawful for the [1][State] Government from time to time [6][to direct that the recognition of any body or institution to hold qualifying examinations under section 22 shall be withdrawn and the said body or institution] shall not be authorized to hold a qualifying examination:

Provided that before any direction [7][for the withdrawal of the recognition of any body or institution] is made under this section, [8][the Faculty shall require the body or institution] to take steps within such time as it thinks fit to provide that the course of study and examinations prescribed [9][by the body or institution are] of an adequate standard.

Exemption from serving on inquests.

24. Notwithstanding anything in any other law for the time being in force, every registered practitioner shall be exempt, if he so desires, from serving on any inquest or as a juror or assessor under the Code of Criminal Procedure, 1898. V of 1898

Fees payable to members of Board [10][and the Faculty].

25. There shall be paid to the members of the Board [10][and the Faculty] such fees and allowances for attendance and such reasonable travelling allowances as shall from time to time be prescribed by rules.

Fees received by Board [10][and the Faculty].

26. All moneys received by the Board [10][and the Faculty] as fees under this Part shall be applied for the purposes of this Part in accordance with the rules.

Annual list of practitioners.

27. (*1*) The Registrar shall [11][at least once in every five years] on or before a date to be fixed by the Board, cause to be printed and published a correct list of the names and qualifications of all practitioners for the time being entered in the Register and the dates when such qualifications were acquired.

(*2*) In any proceeding it shall be presumed that every person entered in such list is a registered practitioner and that any person not so entered is not a registered practitioner.

28. [*False assumption of degree or diploma to be an offence.*] *Repealed by Bom. 33 of 1949, s. 28.*

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[1] This word was sub tituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words "the Board" by Bom. 33 of 1949, s. 24.
[3] This portion was substituted for the words "of the institutions specified in the notification under section 22", *ibid.*
[4] These words were substituted for the words "Indian systems of medicine" by Bom. 5 of 1950, s. 7.
[5] This word was substituted for words "Unani Tibbi" by 61 of 1954, s. 2.
[6] This portion was substituted for the original by Bom. 33 of 1949, s. 24.
[7] These words were substituted for the words "for the removal of an institution from the said notification", *ibid.*
[8] These words were substituted for the words "the Board shall require the institution", *ibid.*
[9] These words were substituted for the words "by the institutions are", *ibid.*
[10] These words were inserted, *ibid.*, ss. 25 and 26.
[11] These words were substituted for the words "in every year", *ibid.*, s. 27.

[1][28A. (*1*) The Faculty may, with the previous sanction of the [2][State] Government, make by-laws not inconsistent with this Part or the rules for the following matters, namely :— By-laws.

(*a*) the course of study for training and qualifying examinations ;

(*b*) the language in which the examinations shall be conducted and instruction shall be given ;

(*c*) the admission of students to the recognised institutions ;

(*d*) the conditions under which students shall be admitted to degrees, diplomas, licence or certificate's course and to the qualifying and prior examinations ;

(*e*) the conditions of appointment of examiners and the conduct of examinations ;

(*f*) the conditions for the recognition of teachers in recognised institutions ;

(*g*) the requirements for the recognition of teaching institutions ;

(*h*) such other matters as may be necessary for the exercise of powers and performance of functions to be exercised or performed by the Faculty under this Act.

(*2*) All by-laws shall be published in the *Official Gazette.*

(*3*) The [2][State] Government may by notification in the *Official Gazette* cancel any by-law :

Provided that in submitting by-laws for the sanction of the [2][State] Government under this section the Faculty shall send a copy of its proceedings relating to the passing of such by-laws and shall state the number of its members representing [3][the Ayurvedic system of medicine and the [4][Unani] system of medicine, respectiv ly] who have voted for or against such by-laws or not voted in respect of such by-laws :

Provided further that in sanctioning the said by-laws due consideration shall be given to the opinion of the members of [3][the Ayurvedic system of medicine and the [4][Unani] system of medicine, respectively] as expressed in the said proceedings.]

29. (*1*) The [2][State] Government may, after previous publication, make rules to carry out all or any of the purposes of this Part. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing power, the [2][State] Government may make rules for any of the following matters :—

(*a*) the time at which and the place and manner in which election shall be held under section 5 ;

(*b*) the manner in which vacancies shall be filled under section 7 ;

(*c*) the manner in which the meetings of the Board [5][and the Faculty] shall be convened and held ;

(*d*) the salary, allowances and other conditions of service of the Registrar under section 14 :

(*e*) the form of the Registrar and the particulars to be entered therein under section 15 ;

(*f*) fees chargeable for the alteration of entries in the Register ;

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[1] This section was inserted by Bom. 33 of 1949, s. 29.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] These words were substituted for the words "either system of Indian medicine" by Bom. 5 of 1950, s. 10.
[4] This word was substituted for the words "Unani Tibbi" by Bom. 61 of 1954, s. 2.
[5] These words were inserted by Bom. 33 of 1949, s. 30.

(*g*) the manner in which appeals against the decision of the Registrar shall be heard by the Board under section 17 ;

(*h*) the application of fees ;

(*i*) fees and other allowances payable to members of the Board [1][and the Faculty] under section 25 ;

[2][(*ii*) the amount of and the date on or before which renewal fee shall be paid and the manner in which and the conditions subject to which the name of a practitioner may be re-entered in the register or list under section 18A ;]

(*j*) the furtherance of any of the objects of [3][this Part] ;

[4]* * * * * * *

Regulations. **30.** (*1*) The Board may, with the previous sanction of the [5][State] Government, make regulations not inconsistent with this Part or the rules for any of the following matters, namely :—

(*a*) the time and place at which the Board shall hold its meetings under section 12 ;

(*b*) the salary, allowances and other conditions of service of officers and servants of the Board other than the Registrar, under section 14 ;

[6]* * * * * * *

(*h*) all other matters which may be necessary for the purposes of carrying out the objects of this Part.

(*2*) All regulations shall be published in the *Official Gazette*.

(*3*) The [5][State] Government may by notification in the *Official Gazette* cancel any regulation.

[7]* * * * * * *

Control of [5][State] Government. **31.** If at any time it shall appear to the [5][State] Government that the Board [8][or the Faculty] has failed to exercise or has exceeded or abused any of the powers conferred upon it by or under this Part or has failed to perform any of the duties conferred upon it by or under this Part, the [5][State] Government may, if it considers such failure, excess or abuse to be of a serious character, notify the particulars thereof to the Board [8][or the Faculty, as the case may be] and if the Board [8][or the Faculty] fails to remedy such default, excess or abuse, within such time as the [5][State] Government may fix on this behalf, the [5][State] Government may dissolve the Board [8][or the Faculty, as the case may be] and cause all or any of the powers and duties of the Board [8][or the Faculty, as the case may be] to be exercised and performed by such persons and for such period not exceeding two years as it may think fit.

[9][**31A.** *Registration Tribunal.*] *Deleted by Bom. 61 of 1954, s. 9.*

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[1] These words were inserted by Bom. 33 of 1949, s. 30.
[2] This clause was substituted for the original by Bom. 61 of 1954, s. 8 (*a*).
[3] These words were substituted for the words " the Board " by Bom. 33 1949, s. 30.
[4] Clause (*k*) was deleted by Bom. 61 of 1954, s. 8 (*b*).
[5] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[6] Clauses (*c*) to (*g*) were deleted by Bom. 33 of 1949, s. 31.
[7] The two provisos were deleted, *ibid.*
[8] These words were inserted, *ibid.*, s. 32.
[9] Sections 31A, 31B and 31C were inserted, *ibid.*, s. 33.

[1][**31B.**] [*Application for registration*]. *Deleted by Bom. 61 of 1954, s. 9.*

[1][**31C.**] [*Power of Registration Tribunal to enter names in Register or list*]. *Deleted by Bom. 61 of 1954, s. 9.*

[2][**31D.** Notwithstanding anything contained in this Act or rules, regulations or by-laws made thereunder if at any time it shall appear to the State Government that the Board or the faculty or any other authority empowered to exercise any of the powers or to perform any of the functions under this Act, has not been validly constituted or appointed, the State Government may cause any of the powers and duties of the Board or the Faculty or any other authority, as the case may be, to be exercised and performed by such person, in such manner and for such period not exceeding six months and subject to such conditions, as it may think fit.] Power of Government to have powers and functions of authorities not validly constituted to be performed by any person.

PART III.

MEDICAL PRACTITIONERS GENERALLY.

Bom. VI of 1912. Bom. XLVIII of 1951.

32. [3][(*1*)] No person other than (*i*) a practitioner registered under Part II of this Act or (*ii*) a medical practitioner registered under the Bombay Medical Act, 1912, or (*iii*) a person whose name is entered in the list mentioned in section 18 [4][or a person whose name is entered in the register maintained or kept under the Bombay Homoeopathic Act, 1951] [5][shall practise any system of medicine] : Medical practitioners not registered under this Act or under Bom. VI of 1912 not to practise, etc.

Provided that the [6][State] Government may, by notification in the *Official Gazette*, direct the provisions of this section shall not apply to any class of persons or in any specified area.

[7][(*2*) A person shall be deemed to practise any system of medicine within the meaning of sub-section (*1*) who holds himself out as being able to diagnose, treat, operate or prescribe medicine or other remedy or to give medicine for any human disease, pain, injury, deformity or physical condition or who by any advertisement, demonstration, exhibition or teaching offers or undertakes, by any means or method

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[1] Sections 31A, 31B and 31C were inserted by Bom. 33 of 1949, s. 33.
[2] Section 31D was inserted by Bom. 5 of 1950, s. 11.
[3] Section 32 was renumbered as sub-section (*1*) of that section by Bom. 61 of 1954, s. 10(*1*).
[4] This portion was inserted by Bom. 48 of 1951, s. 40, Sch. II. This amendment will come into force from the date on which the register shall be given in the custody of the Board under section 20 of Bom. 48 of 1951.
[5] These words were substituted for the words "shall practice or hold himself out, whether directly or by implication, as practising for personal gain any system of medicine, surgery or midwifery" by Bom. 61 of 1954. s. 10 (*2*).
[6] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[7] This sub-section was inserted by Bom. 61 of 1954, s. 10(*3*).

whatsoever to diagnose, treat, operate or prescribe medicine or other remedy or to give medicine for any human disease, pain, injury, deformity or physical condition :

Provided that any person who mechanically fits or sells lenses, artificial eyes, limbs or other apparatus or appliances or is engaged in the mechanical examination of eyes for the purpose of constructing or adjusting spectacles, eye glasses or lenses or practises physio-therapy or electro-therapy or chiropody or who without personal gain furnishes medical treatment or does domestic administration of family remedies shall not be deemed to practise medicine within the meaning of this section.

Explanation.—For the purposes of sub-section (*2*),—

(*c*) "advertisement" includes any word, letter, notice, circular, picture, illustration, model, sign, placard, board or other document and any announcement, made orally or by any means of producing or transmitting light, sound, smoke, or other audible or visible representation ; and

(*b*) "physio-therapy" means treatment of human disease, pain, injury, deformity or physical condition by massage or other physical means but does not include bone setting.]

Medical practitioner not registered under this Act or under Bom. VI of 1912 not to sign birth or death certificate etc.

33. Notwithstanding anything in any law for the time being in force, no person other than a practitioner registered under Part II of this Act or a medical practitioner registered under the Bombay Medical Act, 1912, [1][or a practitioner whose name is entered in Part A or Part B of the register under the Bombay Homoeopathic Act, 1951]— Bom. VI of 1912. Bom. XLV. III of 1951.

(*a*) shall sign or authenticate a birth or death certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner ;

(*b*) shall sign or authenticate a medical or physical fitness certificate required by any law or rule to be signed or authenticated by a duly qualified medical practitioner ; or

(*c*) shall be qualified to give evidence at any inquest or in any Court of law as an expert under section 45 of the Indian Evidence Act, 1872, on any matter relating to medicine, surgery or midwifery. I of 1872.

Penalty for contravention of section 32.

[2][**34.** Any person who acts in contravention of the provisions of section 32 shall, on conviction, be punished—

(*i*) for a first offence, with fine which may extend to five hundred rupees ;

(*ii*) for a second offence, with imprisonment for a term which may extend to six months and with fine which may extend to five hundred rupees ;

(*iii*) for a third and subsequent offences, with imprisonment for a term which may extend to two years and with fine which may extend to two thousand rupees.]

[1] This portion was inserted by Bom. 48 of 1951, s. 40, Sch. II. This amendment will come into force from the date on which the register shall be given in the Custody of the Board under section 20 of Bom. 48 of 1951.

[2] Section 34 was substituted for the original by Bom. 13 of 1953, s. 2.

VII of 1916. Bom. VI of 1912. Bom. XLV. III of 1951.

35. (*1*) No person other than a body or institution authorized under section 22 of this Act or under the Indian Medical Degrees Act, 1916, or under the Bombay Medical Act, 1912, [1][or the Bombay Homoeopathic Act, 1951] shall confer, grant or issue or hold himself out as entitled to confer, grant or issue any degree, diploma or licence which is identical with or is a colourable imitation of any degree, diploma or licence granted by a body or institution authorized under this Act or under the Indian Medical Degrees Act, 1916, or under the Bombay Medical Act, 1912, [1][or the Bombay Homoeopathic Act, 1951,] as the case may be.

Conferring, granting or issuing colourable imitations of degrees, diplomas or licences to be an offence

VII of 1916. Bom. VI of 1912. Bom. XLV. III of 1951.

[2][(*2*) Any person who contravenes the provisions of sub-section (*1*), and if the person so contravening is an association, every member of such association who knowingly or wilfully authorises or permits the contravention, shall, on conviction, be punished—

(*i*) for a first offence, with fine which may extend to one thousand rupees;

(*ii*) for a subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to two thousand rupees or with both.]

[3][**35A.** (*1*) No person shall add to his name any title, description letters or abbreviations which imply that he holds a degree, diploma, licence or certificate as his qualification to practise any system of medicine unless—

Prohibition against addition of any title, description, etc., to name of any person, unless authorized to do so.

(*a*) he actually holds such degree, diploma, licence or certificate; and

(*b*) such degree, diploma, licence or certificate—

(*i*) is recognised by any law for the time being in force in India or in any part thereof, or

(*ii*) has been conferred, granted or issued by a body or institution referred to in section 35, or

(*iii*) has been recognised by the Medical Council of India, or

(*iv*) in cases not falling under sub-clause (*i*), (*ii*) or (*iii*) has been conferred, granted or issued by an authority empowered or recognised as competent, by the [4][State] Government to confer, grant or issue such degree, diploma, licence or certificate.

[5][(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punished—

(*i*) for a first offence, with fine which may extend to five hundred rupees;

(*ii*) for a subsequent offence, with imprisonment for a term which may extend to six months or with fine which may extend to one thousand rupees or with both.]

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[1] This portion was inserted by Bom. 48 of 1951, s. 40, Sch. II. This amendment will come into force from the date on which the register shall be given in the custody of the Board under section 20 of Bom. 48 of 1951.

[2] Sub-section (*2*) was substituted for the original, *ibid.*, s. 3.

[3] This section was inserted by Bom. 33 of 1949, s. 34.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] Sub-section (*2*) was substituted for the original by Bom. 13 of 1953, s. 4.

Saving.

36. Nothing in sections 32 and 34 shall apply to any person—

(*a*) who limits his practice to the art of dentistry, or

(*b*) who being a nurse, midwife or health visitor registered under the Bombay Nurses, Midwives and Health Visitors Registration Act, 1935, or a Dai attends on a case of labour, or Bom. VII of 1935.

[1]* * * * * *

(*c*) who practises [2][any] [3][* * therapeutical system other than the system of the Western Medical Science or the [4][Ayurvedic system of medicine or the [5][Unani] system of medicine] [6][or the Homoeopathic system of medicine], provided that such person—

(*i*) has undergone a course of training in homoeopathy [2][or such other therapeutical system] for such period and in such institutions as may be prescribed by the [7][State] Government and has passed an examination as may be prescribed by the [7][State] Government; and

(*ii*) does not hold a degree, diploma or licence which is a colourable imitation of a degree, diploma or licence entitling any person to practise Western Medical Science under the Indian Medical Degrees Act, 1916, [6][or the Ayurvedic System of Medicine or the [5][Unani] system of medicine or the Homoeopathic system of medicine.] VII of 1916.

Liberty to practise in rural areas.

37. Notwithstanding anything contained in this Part, a person may practise medicine in any rural area—

(*i*) if he has commenced practice in any village in the said area prior to a date on which a practitioner registered under Part II of this Act or under the Bombay Medical Act, 1912, [6][or under the Bombay Homoeopathic Act, 1951,] has commenced and is in regular practice of medicine in the said village, and Bom. VI of 1912. Bom. XLV-III of 1951.

(*ii*) so long as he continues to practise in the said village as his principal place of practice.

Explanation.—For the purposes of this section, "rural area" means an area which is not within the limit of a municipality, cantonment or notified area committee.

Court competent to try offences under this Act and cognizance of offences.

38. (*1*) No Court other than the Court of a Presidency Magistrate or of a Magistrate of the First Class shall take cognizance of or try an offence under this Act.

(*2*) No Court shall take cognizance of any offence under this Act except on a complaint in writing of an officer empowered by the [7][State] Government in this behalf.

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[1] Clauses (*c*) and (*d*) were deleted by Bom. 33 of 1949, s. 35.

[2] This word was substituted for the words "homoeopathy or any other" by Bom. 48 of 1951, s. 40, Sch. II. *See* also foot-note 6.

[3] These words were inserted by Bom. 33 of 1949, s. 35.

[4] These words were substituted for the words "Indian System of Medicine" by Bom. 5 of 1950, s. 7.

[5] This word was substituted for the words "Unani Tibbi" by Bom. 61 of 1954, s. 2.

[6] This portion was inserted by Bom. 48 of 1951, s. 40, Sch. II. This amendment will come into force from the date on which the register shall be given in the custody of the Board under section 20 of Bom. 48 of 1951.

[7] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

* *See* now Bombay Nurses, Midwives and Health Visitors Act, 1954 (Bom. XIV of 1954).

39. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act, rules or regulations. Indemnity to persons acting under the Act.

[1][SCHEDULE.

(1) Ayurvedvisharad (D. A. S. F.) of the State Faculty for Ayurvedic System of Medicine.

(2) Mahire-tib-o-Jarahat (D. U. S. F.) of the State Faculty for Unani System of Medicine.

(3) Mahire-tib-o-Jarahat of the Board of Examiners in Unani obtained during 1942 and 1943.

(4) Ayurvidya-visharad of the Tilak Maharashtra Vidyapeeth, Poona, before 1944.

(5) Ayurvedteerth of Ayurved Mahavidyalaya, Ahmednagar, held before 1942.

6) Ayurvedvisharad of Aryangla Vaidyak Mahavidyalaya, Satara, before 1942.

(7) Grihit Ayurvedshastra (L.A.M.) of U. P. Ayurved Mahavidyalaya, Patan (Baroda State), before 1942.

(8) Ayurvedacharya either with Medicine and Surgery or with Modern Medicine and Surgery of the Benares Hindu University, Benares.

(9) Fazil-e-tib-o-Jarahat and Kamile-e-tib-o-Jarahat of the Ayurvedic and Unani Tibbi College, Delhi.

(10) Licentiate of Indian Medicine of the Board of Examiners in Indian Medicine, Madras.

(11) Ayurvidya Parangat of the Tilak Maharashtra Vidyapeeth.]

[2][(12) Ayurvedalankar of Gurukul University, Kangri]

[3][(13) Graduate in Faculty of Ayurvedic Medicine]

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[1] This Schedule was inserted by Bom. 33 of 1949, s. 36.
[2] This entry was inserted by G. N., L. S. G. & P. H. D., No. 4624/33, dated the 26th May 1953.
[3] This entry was inserted by G. N., L. S. G. & P. H. D., No. 4614/33, dated the 4th June 1953.

THE BOMBAY GAS SUPPLY ACT, 1939.

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BOMBAY ACT No. IX OF 1939.

[THE BOMBAY GAS SUPPLY ACT, 1939.]

[*17th May 1939.*]

Amended by Bom. 13 of 1950.

Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to provide for the regulation of [2][the supply of gas including the prices therefor] in the Province of Bombay.

WHEREAS it is expedient to provide for the regulation of [2][the supply of gas including the prices therefor] in the Province of Bombay and for certain other matters; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Gas Supply Act, 1939.

(*2*) It shall extend to the whole of the [3][State] of Bombay.

(*3*) It shall come into force on such date as the [4][State] Government may by notification in the *Official Gazette* appoint.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*1*) " company " means the Bombay Gas Company, Limited, governed by the Gas Companies Act, 1863, or any other person to whom the provisions of this Act may, for the time being, be extended under section 10 and includes the successors and assigns of such company or person ;

Bom. V of 1863.

(*2*) " consumer " means any person who is supplied with gas by the company ;

(*3*) " prescribed " means prescribed by rules made under this Act ;

[5][(*4*) " Inspector " means the Gas Inspector appointed by the State Government under section 70 ;

[5](*5*) " calorific value " means the number of British thermal units (gross) produced by the combustion of one cubic foot of gas measured at sixty degrees Fahrenheit under a pressure of thirty inches of mercury and, except as may be otherwise directed by the State Government in relation to gas supplied by any particular company or class of companies specified in the direction, saturated with water vapour.]

Company to prepare and render accounts annually.

3. (*1*) The company shall prepare and render to the [4][State] Government or to such officer as the [4][State] Government may appoint in this behalf, on or before the prescribed date in each year, a statement of accounts of its undertaking for such period, made up to such date, in such form and containing such particulars, as may be prescribed in this behalf.

(*2*) The company shall keep copies of such statement of accounts at its office and sell the same to any applicant at a price not exceeding that which may be prescribed.

Audit of accounts.

4. (*1*) The [4][State] Government may direct that the statement of accounts of the undertaking shall, before being rendered under section 3, be examined and audited by such person as the [4][State] Government may appoint or approve in this behalf.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, p. 165, *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3688, or Bombay Legislative Council Debates, 1939, Vol. 6, p. 780. For Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3193-3201 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 626-631.

[2] These words were substituted for the original words by Bom. 13 of 1950, s. 2.

[3] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[4] This word was substituted for the word " Provincial ", *ibid.*

[5] These clauses were inserted by Bom. 13 of 1950, s. 3.

(*2*) The remuneration of the auditor shall be such as the [1][State] Government may direct and his remuneration and all expenses incurred by him in or about the execution of his duties, to such an amount as the [1][State] Government shall approve, shall be paid by the company on demand.

(*3*) The company shall afford to the auditor, his clerks and assistants, access to all such books and documents relating to the undertaking as are necessary for the purposes of the audit, and shall, when required, furnish him and them all vouchers and information requisite for that purpose, and afford to him and them all facilities for the proper execution of his and their duty.

(*4*) The audit shall be made and conducted in such manner as the [1][State] Government may direct.

(*5*) If the company fails to pay the amount of the auditor's remuneration and the expenses incurred by him within the time fixed by the [1][State] Government in this behalf, the same may be recovered from it as an arrear of land revenue.

Advisory Committee.

5. (*1*) The [1][State] Government may by notification in the *Official Gazette* constitute an Advisory Committee.

(*2*) The Advisory Committee shall consist of a Chairman and not less than two other members.

(*3*) The [1][State] Government may by general or special order,—

(*i*) define the powers, and duties and regulate the procedure of the committee,

(*ii*) determine the tenure of office of the members of the committee, and

(*iii*) give directions as to the payment of fees to, and the travelling expenses incurred by, any of the members of the committee in the execution of his duty.

Rules to prescribe limits of prices.

6. The [1][State] Government may, from time to time in accordance with the recommendations of the Advisory Committee, make rules prescribing the limits of prices which the company may charge for the supply of gas to any consumer or class of consumers, in the whole of the [2][State] or in any specified area.

Price in excess of limit not to be charged or recovered.

7. Notwithstanding any contract or law, the company shall not, at any time, charge or recover from any consumer price for supply of gas to him in excess of the limit prescribed in this behalf by rules made under section 6.

Pressure etc. at which gas to be supplied.

[3][**7A.** The gas supplied by the company to the consumers shall, except for any cause beyond its control, be of such standard of calorific value, pressure and purity, such standard being subject to such allowance, as may be specified by the State Government in this behalf by notification in the *Official Gazette*. The standards so specified may vary from time to time and may be different for different localities or areas.

Facilities for inspection and testing.

[3][**7B.** The company shall at all times afford all facilities to the Inspector or his assistants authorised by him in writing in this behalf to inspect and test any of its works for the purpose of determining the calorific value, pressure or purity of the gas supplied to the consumers.

Explanation.—In this section "works" includes any buildings, machinery or apparatus required to supply gas.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Province", *ibid.*
[3] Sections 7A to 7P were inserted by Bom. 13 of 1950, s. 4.

[1]**7C.** The company shall keep and maintain in good working order such measuring and recording instruments and equipments as the Inspector may require for the correct determination of the calorific value, pressure and purity of gas supplied to the consumers and for testing the accuracy of the meters. Such instruments and equipments shall at all times be open for inspection and testing by the Inspector or any of his assistants. Company to maintain equipments.

[1]**7D.** (*1*) A consumer may make a complaint in writing to the company that the gas supplied to him is below the standard of the specified calorific value or pressure or purity and the company shall, within forty-eight hours of the receipt of such complaint, test the calorific value or pressure or purity of the gas supplied in the presence of the consumer or his representative if the consumer so desires, and if the gas supplied is found below such standard taking into consideration the allowance specified shall restore the calorific value, pressure or purity, as the case may be, to its standard within forty-eight hours of such testing or within such longer period as the Inspector may allow. Complaint for failure to supply gas at normal pressure etc.

(*2*) Where on such testing the standard in regard to which the complaint was made is found to be correct, the company shall be entitled to recover from the consumer a testing charge not exceeding such amount as may be prescribed.

[1]**7E.** No consumer shall at any time make additions to his installation without the knowledge and consent of the company. Consent of company required for additions to installation by consumers.

[1]**7F.** The company shall provide and maintain a correct meter for every consumer for measuring the gas supplied to him. Company to supply meters.

[1]**7G.** The company shall not grant new connection to any person for the supply of gas, except in accordance with the rules made by the State Government in this behalf. New connections to be in accordance with rules.

[1]**7H.** (*1*) A consumer may make a complaint in writing to the company that the meter supplied to him is not correct, and the company shall, within forty-eight hours of the receipt of such complaint, test the meter in the presence of the consumer or his representative if the consumer so desires and if the meter is found to be otherwise than correct, shall replace it by correct meter within the next forty-eight hours or such longer time as may be allowed by the Inspector. Complaint for incorrect meter.

(*2*) Where on such testing the meter is found to be correct, the consumer shall, if demanded by the company in writing, be liable to pay to the company a testing charge not exceeding such amount as may be prescribed.

Explanation.—For the purposes of this section, a meter shall be deemed to be correct if it does not register measurement of gas more than 3 per cent. above or below the correct measurement.

[1] Sections 7A to 7P were inserted by Bom. 13 of 1950, s. 4.

Disputes to be referred to Inspector.

[1]**7-I.** (*1*) Where any dispute arises between a consumer and the company as to the quantity of gas consumed, amount of any charges levied by the company for the supply of gas, testing of calorific value, pressure or purity or testing of meter, the matter may by application be referred by either party to the Inspector and decided by him after holding such inquiry as he deems necessary.

(*2*) Such application shall be in writing and shall be in such form and accompanied by such fees as may be prescribed.

Recovery of charges and rents due to company.

[1]**7J.** (*1*) Where a consumer neglects to pay any charge due from him to the company for the supply of gas, or the testing of meter or the calorific value, pressure or purity of gas or any rent due for any meter or fitting let for hire by the company, the company may after giving not less than seven clear days' notice in writing and without prejudice to its right to recover such charge or rent by suit, stop the gas from entering the premises of such consumer by cutting off the service-pipes or by such means as the company shall think fit.

(*2*) When the company stops the gas from entering the premises of any consumer under sub-section (*1*), the company, their agents or workmen after giving twenty-four hours' previous notice to the occupiers, may enter into such premises between the hours of nine in the forenoon and four in the afternoon, and recover and carry away any pipe, meter, fittings or other works, being the property of the company.

(*3*) When any dispute has been referred under this Act to the Inspector, the company shall not exercise the powers conferred by this section until the Inspector has given his decision or until the expiry of one month from the date on which the dispute was referred to the Inspector, whichever is earlier.

(*4*) When the supply of gas has been stopped by the company under this section, the company shall not be bound to restore the supply of gas, until the consumer has paid to the company such reconnection charges, if any, as may be prescribed.

Fees for service of Inspector.

[1]**7K.** (*1*) For the services of the Inspector under any of the provisions of this Act, the State Government may prescribe fees and may by general or special order provide for remission of any fee or any portion thereof.

(*2*) Such fees shall be paid to the Inspector by such party as the Inspector may decide.

(*3*) The fees paid under sub-section (*2*) shall be credited to the State Government.

Failure to pay Inspector's fees by consumer.

[1]**7L.** Where a consumer fails to pay any prescribed fee as directed by the Inspector within seven days from the date of demand of such fees by the Inspector in writing, the Inspector may direct the company to discontinue the supply of gas to such consumer and the company shall discontinue the supply of gas to such consumer until such time as the company is directed by the Inspector to restore the same :

Provided that the company shall not be bound to restore the supply of gas after it is so discontinued, until the consumer has paid to the company such re-connection charges as may be prescribed.

List of consumers.

[1]**7M.** The Inspector may at any time require the company to submit to him a list of persons supplied with gas by the company and the company shall comply with such requisition and supply such other information as the Inspector may require.

[1] Sections 7A to 7P were inserted by Bom. 13 of 1950, s. 4.

Directions by Inspector to consumers.

[1]**7N.** (*1*) The Inspector may direct any consumer to discontinue the use of any part of the installation or any apparatus, which in the opinion of the Inspector, is causing, or is likely to cause, waste of gas or overloading of the meter provided on the consumer's premises and such consumer shall comply with the Inspector's direction in this behalf.

(*2*) Where a consumer fails to comply with any direction given by the Inspector under sub-section (*1*), without prejudice to any other penalty to which the consumer may be liable, the Inspector may direct the company to discontinue the supply of gas to such consumer and the company shall discontinue the supply of gas to such consumer until such time as the company is directed by the Inspector to restore the same :

Provided that the company shall not be bound to restore the supply of gas after it is so discontinued, until the consumer has paid to the company such reconnection charges as may be prescribed.

Appointment of Inspector.

[1]**7-O.** The State Government may by notification in the *Official Gazette* appoint a duly qualified person to be a Gas Inspector and the Gas Inspector so appointed shall exercise the powers and perform the functions of the Inspector under this Act, subject to such restrictions as the State Government may direct. The qualifications required for appointment as the Inspector shall be such as may be prescribed.

Appeal against decision of Inspector.

[1]**7P.** (*1*) An appeal shall lie from the decision of the Inspector under this Act to the State Government or such officer as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

(*2*) Every such appeal shall be made within 30 days from the date of the decision of the Inspector.]

Penalty for contravention by company.

[2][**8.** If the company, without reasonable excuse, the burden of proving which shall lie on the company, contravenes any of the provisions of this Act, it shall, on conviction, be punished with fine which may extend to Rs. 1,000 and, in the case of a continuing contravention, with an additional fine which may extend to Rs. 50 for every day during which such contravention continues after conviction for the first such contravention.]

The principal officer to be liable for default made by the Company.

9. Where anything is required to be done by the company by or under any provision of this Act, the principal officer of the company shall be bound to do the same and shall be personally liable if default is made in the doing of any such thing.

Explanation.—For the purposes of this section the principal officer of the company shall mean the director, secretary, treasurer, manager or agent of the company.

Penalty for contravention by consumer.

[3][**9A.** If a consumer, without reasonable excuse, the burden of proving which shall lie on the consumer, fails to comply with any direction given to him by the Inspector under any of the provisions of this Act, he shall, on conviction, be punished with a fine which may extend to Rs. 100 and, in the case of a continuing failure, with an additional fine which may extend to Rs. 10 for every day during which such failure continues after conviction for the first such failure.

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[1] Sections 7A to 7P were inserted by Bom. 13 of 1950, s. 4.
[2] This section was substituted for the original, *ibid*, s. 5.
[3] Sections 9A, 9B and 9C were inserted, *ibid*, s. 6.

Inspector to be public servant.

9B. The Inspector appointed by the State Government under section 7-O shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Indemnity from suits and proceedings.

9C. No suit, prosecution or other proceedings shall be instituted against the Inspector or any of his assistants for anything in good faith done or purporting to be done under this Act.]

Extension of the Act to persons manufacturing or supplying gas.

10. The [1][State] Government may, by notification in the *Official Gazette*, extend the provisions of this Act to any person who manufactures or supplies gas in any area within the [2][State] of Bombay.

Rules.

11. (*1*) The [1][State] Government may, by notification in the *Official Gazette*, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision such rules may be made for all or any of the following matters :—

(*a*) the date on or before which the statement of accounts of its undertaking shall by rendered by the company to the [2][State] Government under sub-section (*1*) of section 3 ; the date up to which such statement shall be made and the particulars which it shall contain ; and

(*b*) the maximum price at which copies of statement of accounts shall be sold, under sub-section (*2*) of section 3.

[3][(*c*) the generation, transmission, supply and use of gas ;

(*d*) the maximum amount of the testing charge to be paid to the company under sub-section (*2*) of section 7D or of section 7H ;

(*e*) the manner of granting new connections under section 7G ;

(*f*) the form of application and the fees to be paid with the application under section 7-I ;

(*g*) the fees to be paid for the services of the Inspector under section 7K ;

(*h*) the reconnection charges to be paid to the company under sections 7J, 7L and 7N ;

(*i*) the installation, fixing of meters or fittings and their inspection and maintenance ;

(*j*) the inspection of measuring and recording instruments ;

(*k*) any other matter which is to be or may be prescribed.

(*3*) The power to make rules under this Act shall be subject to the condition of previous publication.]

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word " Province ", *ibid.*
[3] These clauses and sub-section (*3*) were inserted by Bom. 13 of 1950, s. 7.

THE BOMBAY LIFTS ACT, 1939.

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7. Lift not to be operated without a licence.
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8A. Owner to give facilities for inspection.
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BOMBAY ACT No. X OF 1939.[1]

[THE BOMBAY LIFTS ACT, 1939.]

[*17th May 1939*]

Amended by Bom. 17 of 1945.[2]
,, ,, ,, 32 of 1955.

An Act to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the Province of Bombay.

WHEREAS it is expedient to provide for the regulation of the construction, maintenance and safe working of certain classes of lifts and all machinery and apparatus pertaining thereto in the Province of Bombay in manner hereinafter, appearing ; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Bombay Lifts Act, 1939.

Extent and commencement.

2. (*1*) This Act shall extend to the whole of the [3][State] of Bombay.

(*2*) It shall come into force on such date as the [4][State] Government may, by notification in the *Official Gazette*, appoint.

Definitions.

3. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " Inspector of Lifts " means an officer appointed as such by the [4][State] Government.

(*b*) " License " means a license granted under section 5.

(*c*) " Lift " means a hoisting mechanism equipped with a [5][car] which moves in a substantially vertical direction, is worked by power and is [6][designed to carry passengers or goods or both].

[7]* * * * * * * *

[8][(*d*) " Lift car " means the cage or car of a lift used whether for the conveyance of passengers or goods or both and includes the floor or platform, car frame, sling and enclosing body work but shall not include a hoist or lift to which the Factories Act, 1948, applies.]

LXIII of 1948.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, p. 665 *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3465 *or* Bombay Legislative Council Debates, 1939, Vol. 6, p. 777. For Report of the Select Committee, *see Bombay Government Gazette*, 1939, Part V, pp. 179-182. For Proceedings in Assembly *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 73-75, 2269, 3075 and 3201-3203 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 622-626.

[2] This Act was repealed and re-enacted and the amendments made by section 9 and Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

[3] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.

[4] This word was substituted for the word " Provincial ", *ibid.*

[5] This word was substituted for the word " cage " by Bom. 32 of 1955, s. 2 (*1*) (*a*).

[6] These words were substituted for the words " designed or is actually used to carry passengers " *ibid.*, s. 2 (*1*) (*b*).

[7] The Explanation was deleted, *ibid.*, s. 2 (*1*) (*c*).

[8] This clause was substituted for the original clause, *ibid.*, s. 2(*2*).

(*e*) " Lift installation " includes the lift [1][car], the lift way, the lift way enclosure and the operating mechanism of the lift and all ropes, cables, wires and plant, directly connected with the operation of the lift.

(*f*) " Lift way " means the shaft in which the lift [1][car] travels.

(*g*) " Lift way enclosure " includes any permanent substantial structure surrounding or enclosing the lift way.

(*h*) " Power " means any form of energy which is not generated by human or animal agency.

(*i*) " Prescribed " means prescribed by rules.

(*j*) " Rules " means rules made under section 12.

Permission to erect a lift.

4. Every owner of a place intending to install a lift in such place after the commencement of this Act, shall make an application to such officer as the [2][State] Government may authorize in this behalf for permission to erect such lift. Such application shall be in writing and in such form as may be prescribed. Such application shall specify—

(*1*) the type of the lift,

(*2*) the rated maximum speed of the lift,

(*3*) the maker's or designer's rated capacity in weight,

(*4*) the maximum number of passengers in addition to the lift operator which the lift can carry,

(*5*) the total weight of the lift [3][car] carrying the maximum load,

(*6*) the weight of the counterweight,

(*7*) the number, description, weight and size of the supporting cables,

(*8*) the depth of the pit from the lowest part of the [3][car] when at the lowest floor,

(*9*) such details of the construction of the overhead arrangement with the weight and sizes of the beams as may be prescribed, and

(*10*) such other particulars as may be prescribed.

On receipt of such application the officer authorised under this section shall, after making such enquiry and requiring the applicant to furnish such information as may be necessary, forward the application with his remarks to the [2][State] Government. The [2][State] Government may thereupon either grant or refuse the permission. Such permission shall be valid only for a period of six months from the date on which it is granted.

Licence to use a lift.

5. (*1*) Every owner of a place who is permitted to install a lift under section 4, shall, within one month after the completion of the erection of such lift deliver or send or cause to be delivered or sent to such officer as the [2][State] Government may authorise in this behalf notice in writing of such completion and shall make an application to him for a licence for working the lift.

(*2*) An application for a licence made under sub-section (*1*) shall be in such form as may be prescribed.

(*3*) On receipt of such application such officer as may be authorised in this behalf by the [2][State] Government after making such enquiry as may be necessary forward the application with his remarks to the [2][State] Government. The [2][State] Government may, thereupon, either grant or refuse the licence.

(*4*) A fee of Rs. 20 shall be paid along with such application.

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[1] This word was substituted for the word " cage " by Bom. 32 of 1955, s. 2 (*3*).

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word " cage " by Bom. 32 of 1955, s. 3.

Applications for licence in case of existing lifts.

6. (*1*) Notwithstanding anything contained in sections 4 and 5 every owner of a place in which a lift has been installed before the date of the commencement of this Act, shall within two months from such date apply for a licence for the working of such lift.

(*2*) The provisions of sub-sections (*2*) to (*4*) of section 5 shall, so far as may be apply to such application.

Lift not to be operated without a licence.

7. Subject to such rules as may be made in this behalf no lift shall be worked except under and in conformity with the terms of the licence granted in respect of the same :

Provided that nothing in this section shall apply to a lift installed at the date of the commencement of this Act, for a period of two months from such date or if an application for licence is made within that period in accordance with the provisions of section 6, until such application is finally disposed of under the said section.

Additions and alterations to the lift installation.

[1][**7A.** No additions or alterations other than those required to be made under sub-section (*2*) of section 8, shall be made to any lift installation except with the previous permission in writing of an officer authorised in this behalf by the State Government.]

Right to enter any building for inspection of lifts and lift installation.

8. (*1*) An officer authorized in this behalf by the [2][State] Government may at any time after giving reasonable notice to the occupant enter upon any building in which a lift is installed or is being installed or in connection with which an application for a license has been received, for the purpose of inspecting the lift or the lift installation or the site thereof.

Order for repairs, alterations to and discontinuance of lifts in an unsafe condition.

(*2*) If on such inspection the officer is of the opinion that any lift in any building is in an unsafe condition, he may issue an order on the owner of the building [3][or his agent appointed under sub-section (*2*) of section 9] requiring such repairs or alterations to be made to such lift as he may deem necessary within the time specified therein and may also, if necessary, order the use of such lift to be discontinued until such repairs or alterations are made or such unsafe condition is removed. [4][The owner or his agent, as the case may be, shall thereupon comply with the order within the period specified therein and shall forthwith report in writing to the officer of having so complied.] [5]* * * * *

[6][(*3*) Any person aggrieved by an order of the officer under sub-section (*2*) may, within thirty days from the date of such order, appeal to the State Government.

(*4*) Notwithstanding any appeal made to the State Government under sub-section (*3*), any order to discontinue the use of a lift made by the officer under sub-section (*2*) shall be complied with, unless the State Government has suspended such order.

(*5*) The order made by the officer under sub-section (*2*), subject to an appeal to the State Government and the decision of the State Government on the appeal shall be final.]

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[1] Section 7A was inserted by Bom. 32 of 1955, s. 4.
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] These words were inserted by Bom. 32 of 1955, s. 5(*1*) (*a*).
[4] This portion was inserted, *ibid.*, s. 5(*1*) (*b*).
[5] The portion beginning with the words " An appeal shall lie " and ending with the words " shall be final. " was deleted, *ibid.*, s. 5(*1*) (*c*).
[6] These sub-sections were inserted, *ibid.*, s. 5 (*2*).

Owner to give facilities for inspection.

[1][8A. The owner of a building in which a lift is installed or his agent appointed under sub-section (*2*) of section 9 shall afford all reasonable facilities to the officer for inspecting a lift under section 8 and whenever ordered to do so by the officer shall, at his own cost, procure at such inspection, the attendance of the person, if any, with whom he has entered into a contract for the erection or maintenance of the lift or a representative of such person who is competent to guide the officer in inspecting the lift.]

Report of accidents.

9. (*1*) Where any accident occurs in the operation of any lift [2][which results or was likely to result] in injury to any person the owner of the building in which the lift is working or if such owner has appointed an agent and has communicated his name to the Inspector of Lifts under sub-section (*3*), such agent shall as soon as may be after such accident give notice with full details of the accident to the Inspector of Lifts and also in [3][the Greater Bombay] to the Commissioner of Police and elsewhere to the District Magistrate and [4][the lift installation shall not be interfered with in any way and] the working of such lift shall not be resumed except with the written permission of the officer authorised in this behalf by the [5][State] Government.

(*2*) For the purposes of sub-section (*1*), the owner of every building in which a lift has been installed may and if such owner does not reside in such building, shall appoint an agent who shall be a resident in the town or village in which the building is situate to give notice of any accident occurring in the operation of the lift.

(*3*) The name of every agent appointed under sub-section (*2*) shall be communicated to the Inspector of Lifts.

Delegation of the powers of Government.

10. The [5][State] Government may delegate any of the powers conferred on it by or under this Act to such officer as it thinks fit.

Inspection of lifts.

11. Every lift shall be inspected at least once in six months by an officer authorised in this behalf by the [5][State] Government. An annual fee of Rs. 15 shall be charged for such inspection and such fee shall include the charges for the inspection of the motor.

Recovery of fees.

[6][11A. All sums payable as fees under this Act shall be recoverable as arrears of land revenue.]

Powers to make rules.

12. (*1*) The [5][State] Government may, from time to time by notification in the *Official Gazette*, make rules to carry out the purposes of this Act.

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[1] Section 8A was inserted by Bom. 32 of 1955, s. 6.
[2] These words were substituted for the word " resulting " *ibid.*, s. 7(*1*).
[3] These words were substituted for the words " the City of Bombay " by Bom. 17 of 1945, s. 9 and Sch. E, read with Bom. 52 of 1947, s. 2, proviso.
[4] These words were inserted by Bom. 32 of 1955, s. 7(*2*).
[5] This word was substituted for the word " Provincial " by the Adap ation of Laws Order, 1955.
[6] Section 11A was inserted by Bom. 32 of 1955, s. 8.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may be made for the following matters, namely :—

(*a*) specifications for lifts,

(*b*) the manner in which erection plans of lifts shall be submitted,

(*c*) the manner in which the lifts may be tested,

(*d*) the form of application for the erection of a lift or a licence for working the same,

(*e*) the terms and conditions subject to which and the form in which the licenses may be granted for the working of a lift under section 7,

(*f*) the manner in which and the terms subject to which the lifts shall be worked under section 7,

(*g*) the manner in which notice of accidents shall be given and the form of such notice, and

(*h*) the form of notice to be given under section 8.

13. Whoever contravenes any of the provisions of this Act, rules or conditions of a license or a direction given by the Inspector of Lifts under this Act or the rules shall, on conviction, be punishable with a fine which may extend to five hundred rupees and, in the case of a continuing contravention with an additional fine which may extend to fifty rupees for every day during which such contravention continues after conviction for the first such contravention. **Penalty.**

[1][**13A.** (*1*) Every notice, order or document by or under this Act required or authorised to be addressed to any person may be served by post or left,— **Service of notices, orders or documents.**

(*a*) where a local authority is the addressee, at the office of the local authority ;

(*b*) where a company is the addressee, at the registered office of the company or in the event of the registered office of the company not being in India, at the head office of the company in India ;

(*c*) where any other person is the addressee, at the usual or last known place of abode or business of the person.

(*2*) Every notice, order or document by or under this Act required or authorised to be addressed to the owner or the agent of the owner, or the occupant of any premises shall be deemed to be properly addressed, if addressed by the description of the 'owner' or 'agent of the owner' or 'occupant' of the premises (naming the premises) and may be served by delivering it or a true copy thereof, to some person on the premises, or, if there is no person on the premises to whom the same can with reasonable diligence be delivered, by affixing it on some conspicuous part of the premises.

13B. No suit, prosecution or other legal proceedings shall be instituted against any officer for anything which is in good faith done or intended to be done under this Act. **Protection for acts done in good faith.**

[1] Sections 13A, 13B and 13C were inserted by Bom. 32 of 1955, s. 9.

Application of Act to lifts belonging to Government.

13C. The provisions of this Act shall apply to lifts installed by Government and in the application of the said provisions to such lifts, the said provisions shall be deemed to have been adapted or modified as follows :—

(*1*) In sub-section (*1*) of section 6, for the words beginning with the words 'every owner' and ending with the words 'apply for a licence' the following shall be substituted, namely :—

'an application for a licence shall be made by Government which has or on whose behalf a lift has been installed before the commencement of the Bombay Lifts (Amendment) Act, 1955, within two months from the said date';

Bom. XXX of 1955.

(*2*) In the proviso to section 7, after the words 'the commencement of this Act' the following shall be inserted, namely :—

'or to a lift installed by Government before the commencement of the Bombay Lifts (Amendment) Act, 1955';

Bom. XXX of 1955.

(*3*) In section 8,—

(*a*) in sub-section (*3*), for the words 'the State Government' the words 'the appellate authority appointed in this behalf by the State Government' shall be substituted;

(*b*) in sub-sections (*4*) and (*5*), for the words 'the State Government', wherever they occur, the words 'the appellate authority' shall be substituted;

(*4*) In sub-section (*2*) of section 9, for the words beginning with the words 'the owner of every building' and ending with the words 'in such building', the following shall be substituted, namely :—

'for every building in which a lift has been installed by Government, Government';

(*5*) Section 13 shall be deleted;

(*6*) For clause (*a*) of sub-section (*1*) of section 13A, the following shall be substituted, namely :—

'(*a*) where Government is the addressee, at the office of the agent appointed by such Government under sub-section (*2*) of section 9;'.]

Saving.

14. Nothing contained in this Act shall affect the provisions of the Indian Electricity Act, 1910, or any rules made thereunder.

IX of 1910.

THE BOMBAY REVENUE TRIBUNAL ACT, 1939.

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PREAMBLE.

CHAPTER I.

PRELIMINARY.

SECTIONS.

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2. Definitions.

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4. Powers and functions of the Tribunal.
5. The Tribunal to exercise all powers which Provincial Government could have exercised.
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8. Appeal and application for revision in cases under this Act to lie direct to the Tribunal.
9. Abolition of the Bombay Revenue Tribunal constituted by Government Notification (Revenue Department), No. 4877/33, dated the 1st April 1937 and disposal of pending cases.
10. Manner of executing orders passed by Tribunal.

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MISCELLANEOUS.

11. Exemption from court-fees.
12. Rules.
13. Regulations for the business and procedure of the Tribunal.

BOMBAY ACT No. XII OF 1939.[1]

[THE BOMBAY REVENUE TRIBUNAL ACT, 1939.]

[*29th May 1939.*]

Amended by Bom. 53 of 1949.
" " " 28 of 1950.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 27 of 1954.

An Act to provide for the constitution of a Revenue Tribunal for the Province of Bombay.

WHEREAS it is expedient to provide for the constitution of a Revenue Tribunal for the Province of Bombay by an Act of the Provincial Legislature; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Revenue Tribunal Act, 1939.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall come into force on such date as the [3][State] Government may by notification in the Official Gazette, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

[4]* * * * * * * *

(*2*) "Prescribed" means prescribed by rules made under this Act.

(*3*) "Schedule" means the Schedule to this Act.

(*4*) "Tribunal" means the Bombay Revenue Tribunal constituted under section 3.

CHAPTER II.

CONSTITUTION, POWERS AND FUNCTIONS OF THE BOMBAY REVENUE TRIBUNAL.

Constitution of Tribunal.

3. (*1*) The [3][State] Government shall constitute a tribunal to be called the Bombay Revenue Tribunal. The Tribunal shall consist of such number of members, possessing such qualifications, as may be prescribed.

(*2*) Any vacancy in the membership of the Tribunal shall be filled up in the manner prescribed.

Powers and functions of the Tribunal.

4. (*1*) The Tribunal shall exercise such jurisdiction to entertain appeals and revise decisions in revenue cases as was vested in the [3][State] Government immediately before the first day of April 1937 under any law for the time being in force.

(*2*) In particular and without prejudice to the generality of the foregoing provision the Tribunal shall have jurisdiction to entertain appeals and revise decisions—

(*a*) in all revenue cases, arising under the provisions of the enactments specified in the Schedule in which such jurisdiction was vested in the [3][State] Government immediately before the first day of April 1937, and

(*b*) in all cases specified in section 9.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, pp. 76-77 or Bombay Legislative Assembly Debates, 1939, Vol. 5 pp. 3678-79 *or* Bombay Legislative Council Debates, 1939, Vol. 6, p. 772; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates 1939, Vol. 5, pp. 3091-3104 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 610-621.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial", *ibid.*

[4] Clause (*1*) was deleted by Bom. 28 of 1950, Sch.

(*3*) Save as expressly provided in any enactment for the time being in force, the [1][State] Government may, by notification in the Official Gazette, direct by general or special order that the Tribunal shall also have jurisdiction to entertain and decide appeals and applications for revision in any case in which the [1][State] Government may have jurisdiction to entertain and decide such appeals and applications. The [1][State] Government may, at any time, by like notification cancel any direction issued by it under this sub-section.

The Tribunal to exercise all powers which [1][State] Government could have exercised.

5. In the exercise of the jurisdiction conferred upon it under section 4 in any case, the Tribunal shall have and may exercise all the powers which the [1][State] Government had or could have exercised in such case.

No appeal to lie.

6. No appeal shall lie against any order passed by the Tribunal in the exercise of its powers of appeal or revision under section 4.

Review of the orders of the Tribunal.

7. (*1*) The Tribunal may, either on its own motion or on the application of any party interested, review its own decision or order in any case and pass in reference thereto such order as it thinks fit:

Provided that no such application made by any party shall be entertained unless the Tribunal is satisfied that there has been a discovery of new and important matter or evidence which after the exercise of due diligence was not within the knowledge of such party or could not be produced by him at the time when its decision was made or that there has been some mistake or error apparent on the face of the record or for any other sufficient reason:

Provided further that no such decision or order shall be varied or revised unless notice has been given to the parties interested to appear and be heard in support of such order.

(*2*) An application for review under sub-section (*1*) by any party shall be made within 90 days from the date of the decision or order of the Tribunal:

Provided that in computing the period of limitation, the provisions of the Indian Limitation Act, 1908, applicable to applications for review of a judgment or order of a civil court shall, so far as may be, apply to applications for review under this section. IX of 1908.

8. [*Appeal and application for revision in cases under this Act to lie direct to the Tribunal.*] *Repealed by Bom. 28 of 1950, Sch.*

Abolition of the Bombay Revenue Tribunal constituted by Government Notification (Revenue Department), No. 4877/33, dated the 1st April 1937 and disposal of pending cases.

9. From the date on which this Act comes into force, the Bombay Revenue Tribunal constituted by Government Notification in the Revenue Department, No. 4877/33, dated the 1st day of April 1937, shall be deemed to have been abolished and all appeals and applications for revision pending before the said Tribunal on the said date shall be deemed to have been instituted before the Tribunal and shall be decided by it as if they were instituted before it.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

10. All orders passed by the Tribunal shall be executed in the same manner in which similar orders, if passed by the [1][State] Government or other competent authority, as the case may be, could have been executed. Manner of executing orders passed by Tribunal.

CHAPTER III.

MISCELLANEOUS.

VII of 1870. **11.** Notwithstanding anything contained in the Court-fees Act, 1870, no court-fee shall be levied on any application made under this Act. Exemption from court fees.

12. (*1*) The [1][State] Government may, by notification in the Official Gazette, make rules consistent with the provisions of this Act for carrying out the purposes of this Act, save in regard to the matters specified in section 13. Rules.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for the following matters :—

(*a*) the number and qualifications of members constituting the Tribunal and

(*b*) the manner in which any vacancy in the Tribunal shall be filled.

(*3*) Such rules shall be subject to the condition of previous publication.

13. (*1*) Subject to the previous sanction of the [1][State] Government, the Tribunal shall frame regulations consistent with the provisions of this Act and rules made under section 12 for regulating its procedure and the disposal of its business. Such regulations may provide for the disposal of any case or class of cases by one or more of its members. Regulations for the business and procedure of the Tribunal.

(*2*) The regulations made under sub-section (*1*) shall be published in the Official Gazette.

SCHEDULE.

Serial No.	Act.	Jurisdiction.
1	2	3
1	The Bombay Rent-free Estates Act, 1852 (XI of 1852).	Appeals or revisions which lie to the Tribunal under Rule 2 of Schedule A to the Act.
2	The Exemptions from Land-revenue (No. 1) Act, 1863 (II of 1863).	Appeals in revenue cases made under section 10 of the Act.
3	The Exemptions from Land-revenue (No. 2) Act, 1863 (VII of 1863).	Appeals in revenue cases made under section 28 of the Act.
4	The Bombay Hereditary Offices Act, 1874 (Bom. III of 1874).	Revision of decisions in revenue cases under section 79 of the Act.
5	[2][*Deleted*]	
6	The Bombay Abkari Act, 1878 (Bom. V of 1878).	Appeals in revenue cases under section 60 of the Act.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Entry No. 5 was deleted by Bom. 27 of 1954, s. 5.

Serial No.	Act.	Jurisdiction.
1	2	3
7	The Bombay Land Revenue Code, 1879 (Bom. V of 1879).	Appeals and revision in revenue cases under sections 204 and 211 of the Code.
8	The Khoti Settlement Act, 1880 (Bom. I of 1880).	Appeals in revenue cases under section 20 (2) of the Act.
9	The Matadars Act, 1887 (Bom. VI of 1887).	Revision of decisions in revenue cases under section 4 of the Matadars Act, 1887 (Bom. VI of 1887), read with section 79 of the Bombay Hereditary Offices Act, 1874 (Bom. III of 1874).
10	The Gujarat Taluqdars' Act, 1888 (Bom. VI of 1888).	Appeals and revision in revenue cases specified against the Bombay Land Revenue Code, 1879, read with section 33 of the Gujarat Taluqdars' Act 1888 (Bom. VI of 1888).
11	[1]* * * * *	* * * * *
12	The Indians Forests Act, 1927 (XVI of 1927).	Revision in revenue cases under sections 18 and 22 of the Act.
13	The Bombay (District) Tobacco Act, 1933 (Bom. II of 1933).	Appeals and revision in revenue cases under section 26 of the Act.

[1] Entry No. 11 was deleted by Bom. 53 of 1949, section 2, First Schedule.

The Bombay Charged Expenditure Act, 1939 (Bom. XIII of 1939), at pages 2131 to 2133 has been repealed by the Bombay Charged Expenditure Act, 1950 (Bom. LVI of 1950), section 6.

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THE TRANSFER OF PROPERTY AND THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1939.

CONTENTS.

PREAMBLE.

SECTIONS.

1 Short title.

2. Application of Act.

3. Amendment of section 52 of Act IV of 1882.

4. Amendment of sections 18 and 28 of Act XVI of 1908.

BOMBAY ACT No. XIV OF 1939.[1]

[THE TRANSFER OF PROPERTY AND THE INDIAN REGISTRATION (BOMBAY AMENDMENT) ACT, 1939.]

[*15th June 1939.*]

Amended by Bom. 17 of 1945*.

An Act to amend the Transfer of Property Act, 1882,[2] and the Indian Registration Act, 1908,[2] in their application to the Province of Bombay.

WHEREAS it is expedient to amend the Transfer of Property Act, 1882, and the Indian Registration Act, 1908, in their application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title.

1. This Act may be called the Transfer of Property and the Indian Registration (Bombay Amendment) Act, 1939.

Application of Act.

2. This Act shall apply to notices in respect of suits or proceedings which relate to immovable properties situate wholly or partly in [3][the Greater Bombay] with effect from such date as may be directed by the Provincial Government in this behalf by notification in the Official Gazette:

Provided that the Provincial Government may by similar notification direct that the provisions of this Act shall apply to such notices relating to immovable properties situate wholly or partly in such other area as may be specified in the said notification.

Amendment of section 52 of Act IV of 1882.

IV of 1882. 3. Section 52 of the Transfer of Property Act, 1882, shall be renumbered as sub-section (*1*) of section 52 of the said Act and

(*i*) in sub-section (*1*) so renumbered afer the word "question", the words and figures "if a notice of the pendency of such suit or proceeding is registered under section 18 of the Indian Registration Act, 1908", and after the word "property" where it occurs for the second time, the words "after the notice is so registered", shall be inserted; and

XVI of 1908.

(*ii*) after the said sub-section (*1*) so renumbered the following shall be inserted, namely:—

"(*2*) Every notice of pendency of a suit or proceeding referred to in sub-section (*1*) shall contain the following particulars, namely:—

(*a*) the name and address of the owner of immovable property or other person whose right to the immovable property is in question;

(*b*) the description of the immovable property, the right to which is in question;

(*c*) the court in which the suit or proceeding is pending;

(*d*) the nature and title of the suit or proceeding; and

(*e*) the date on which the suit or proceeding was instituted."

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, p. 67 *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3683, *or* Bombay Legislative Council Debates, 1939, Vol. 6, p. 767. For Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3108-3111; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 600-638.

[2] Central Acts.

[3] These words were substituted for the words "the City of Bombay" by Bom. 17 of 1945, s. 9 and Sch. E read with Bom. 52 of 1947, s. 2, proviso.

* This Act was repealed and re-enacted and the amendments made by section 9 and Sch. E of the said Act have been continued in force by Bom. 52 of 1947, s. 2.

Amendment of sections 18 and 28 of Act XVI of 1908.

4. In the Indian Registration Act, 1908,—

(*1*) in section 18—

(*i*) the word "and" after clause (*e*) shall be deleted ; and

(*ii*) after clause (*e*) the following shall be inserted, namely :—

"(*ee*) notices of pending suits or proceedings referred to in section 52 of the Transfer of Property Act, 1882 ; and" ; and IV of 1882.

(*2*) in section 28 for the brackets, letters and word "(*b*) and (*c*)", the brackets, letters and word "(*b*), (*c*) and (*ee*)", shall be substituted.

THE PRESIDENCY-TOWNS INSOLVENCY AND THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1939.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.

2. Amendment of sections 9 and 112 of Act III of 1909 and insertion of new sections 9A and 101A therein.

3. Amendment of sections 6 and 79 of Act V of 1920 and insertion of new section 6A therein.

BOMBAY ACT No. XV OF 1939.[1]

[THE PRESIDENCY-TOWNS INSOLVENCY AND THE PROVINCIAL INSOLVENCY (BOMBAY AMENDMENT) ACT, 1939.]

[*19th June 1939.*]

An Act to amend the Presidency-towns Insolvency Act, 1909[2] and the Provincial Insolvency Act, 1920[3] in their application to the Province of Bombay.

III of 1909. V of 1920. WHEREAS it is expedient to amend the Presidency-towns Insolvency Act, 1909, and the Provincial Insolvency Act, 1920, in their application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. 1. This Act may be called the Preidency-towns Insolvency and the Provincial Insolvency (Bombay Amendment) Act, 1939.

III of 1909. 2. In the Presidency-towns Insolvency Act, 1909,— Amendment of sections 9 and 112 of Act III of 1909 and insertion of new sections 9A and 101A therein.

(*a*) In section 9 after clause (*h*), the following new clause shall be inserted, namely :—

" (*i*) if, after a creditor has served an insolvency notice on him in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not within the period specified in the notice which shall not be less than one month comply with the requirements of the notice :

Provided that the debtor shall not be deemed to have committed an act of insolvency for not complying with the requirements of the notice, if he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him " ;

(*b*) after section 9, the following new section shall be inserted, namely :—

Insolvency notice. " 9A. (*1*) An insolvency notice under this Act shall be in the prescribed form and shall be served in the prescribed manner. It shall require the debtor to pay the amount due under the decree or order, or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent and shall state the consequences of non-compliance with the notice.

(*2*) Such notice shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement ; but if the debtor does not give such notice, he shall be deemed to have complied with

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1938, Part V, pp. 595-596, *or* Bombay Legislative Assembly Debates, 1939, Vol. 5, p. 3681 *or* Bombay Legislative Council Debates, 1939, Vol. 6, p. 724 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 5, pp. 3104-3108 ; and for Proceedings in Council *see* Bombay Legislative Council Debates, 1939, Vol. 6, pp. 309-339.

[2] Central Acts, Vol. III.

[3] Central Acts, Vol. VII.

the insolvency notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein " ;

(*c*) after section 101, the following new section shall be inserted, namely :—

Limitation.

" 101A. Where an order of adjudication has been annulled under this Act, in computing the period of limitation prescribed for any suit or application for the execution of a decree (other than a suit or application in respect of which leave of the Court was obtained under section 17) which might have been brought or made but for the making of an order of adjudication under this Act, the period from the date of the order of adjudication to the date of the order of annulment shall be excluded :

Provided that nothing in this section shall apply to a suit or application in respect of a debt provable but not proved under this Act " ; and

(*d*) in sub-section (2) of section 112, after clause (*a*) the following clause shall be inserted, namely :—

" (*aa*) the form of insolvency notice and the manner in which it may be served ; "

Amendment of sections 6 and 79 of Act V of 1920 and insertion of new section 6A therein.

3. In the Provincial Insolvency Act, 1920,— V of 1920.

(*a*) in section 6, after clause (*h*), the following new clause shall be inserted, namely :—

" (*i*) if after a creditor has served an insolvency notice on him in respect of a decree or an order for the payment of any amount due to such creditor, the execution of which is not stayed, he does not within the period specified in the notice which shall not be less than one month comply with the requirements of the notice :

Provided that the debtor shall not be deemed to have committed an act of insolvency for not complying with the requirements of the notice, if he has a counter-claim or set off which equals or exceeds the decretal amount or the amount ordered to be paid by him and which he could not lawfully set up in the suit or proceeding in which the decree or order was made against him " ;

(*b*) after section 6, the following new section shall be inserted, namely :—

Insolvency notice.

" 6A. (*1*) An insolvency notice under this Act shall be in the prescribed form and shall be served in the prescribed manner. It shall require the debtor to pay the amount due under the decree or order, or to furnish security for the payment of such amount to the satisfaction of the creditor or his agent and shall state the consequences of non-compliance with the notice.

(2) Such notice shall not be invalidated by reason only that the sum specified in the notice as the amount due exceeds the amount actually due, unless the debtor within the time allowed for payment gives notice to the creditor that he disputes the validity of the notice on the ground of such misstatement ; but if the debtor does not give such notice, he shall be deemed to have complied with the insolvency notice if within the time allowed he takes such steps as would have constituted a compliance with the notice had the actual amount due been correctly specified therein. " ; and

(*c*) in sub-section (2) of section 79, after clause (*a*) the following clause shall be inserted, namely :—

" (*aa*) the form of insolvency notice and the manner in which it may be served ; ".

THE BOMBAY AGRICULTURAL PRODUCE MARKETS ACT, 1939.

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BOMBAY ACT No. XXII OF 1939.[1]

[THE BOMBAY AGRICULTURAL PRODUCE MARKETS ACT, 1939.]

[*2nd November 1939*]

Amended by Bom. 37 of 1948.
Adapted and modified by the Adaptation of Laws Order 1950.
Amended by Bom. 26 of 1951.
,, ,, ,, 36 of 1953.
,, ,, ,, 21 of 1954.
,, ,, ,, 23 of 1954.
,, ,, ,, 2 of 1955.

An Act to provide for the better regulation of buying and selling of agricultural produce and the establishment of markets for agricultural produce in the Province of Bombay.

WHEREAS it is expedient to provide for the better regulation of buying and selling of agricultural produce in the Province of Bombay and establishment of markets for agricultural produce ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

Short title. and extent.

1. (*1*) This Act may be called the Bombay Agricultural Produce Markets Act, 1939.

(*2*) It extends to the whole of the [2][State] of Bombay.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "Agricultural Produce" includes all produce of agriculture, horticulture and animal husbandry specified in the Schedule ;

(*ii*) "Agriculturist" means a person who ordinarily by himself or who by his tenants or hired labour or otherwise is engaged in the production or growth of agricultural produce, but does not include a dealer or broker in agricultural produce although such a dealer or broker may also be engaged in the production or growth of agricultural produce ;

(*iii*) "Bye-laws" means bye-laws made under section 27 ;

[3][(*iv*) "Director" means the Director of Agricultural Marketing and Rural Finance for the [2][State] of Bombay ;]

(*v*) "Market" means a market established for the purposes of this Act ;

(*vi*) "Market Area" means any area declared to be a market area under section 4 ;

(*vii*) "Market committee" means a committee established under section 5 ;

[4](*vii-a*) [5]* * * * *

(*viii*) "Municipality" includes a notified area committee ;

(*ix*) "Prescribed" means prescribed by rules made under section 26 ;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, p. 471 or Bombay Legislative Assembly Debates, 1939, Vol. 7, p. 2372 ; or Bombay Legislative Council Debates, 1939, Vol. 8. pp. 447-48 ; for report of the Select Committee, *see Bombay Government Gazette*, 1939, Part V, pp. 475-77 or Bombay Legislative Council Debates, 1939, Vol. 8, pp.448-50 ; for Proceeding in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 7, pp. 2141-82, 2185-90 ; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 8, pp.12-44, 46-53, 68-71, 189-90.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This clause was substituted for the original by Bom. 57 of 1948, s. 2. All acts done by the Director of Rural Development for the Province of Bombay before the coming into force of the said Act have been saved by section 29A, *infra*.

[4] This clause was inserted by Bom. 26 of 1951, s. 2.

[5] This clause was deleted by Bom. 23 of 1954, s. 2(*1*).

[1][(*ixaa*) "Principal market yard" means an enclosure, building or locality declared to be a principal market yard under section 4A ;]

[2][(*ixa*) "Retail sale" means a sale of any agricultural produce not exceeding such quantity as a market committee may by bye-laws made under section 27 determine to be a retail sale in respect of such agricultural produce ;]

(*x*) "Rules" means rules made under section 26 ;

(*xi*) "Schedule" means Schedule to this Act ;

[3][(*xii*) "Sub-market yard" means an enclosure, building or locality declared to be a sub-market yard under section 4A.]

(*2*) If a question arises whether any person is or is not an agriculturist for the purpose of this Act the decision of the [4][State] Government on such question shall be final.

CHAPTER II.

CONSTITUTION OF MARKETS AND MARKET COMMITTEES.

Notification of intention of exercising control over purchase and sale of agricultural produce in specified area.

3. (*1*) The [4][State] Government may, by notification in the *Official Gazette*, declare its intention of regulating the purchase and sale of such agricultural produce and in such area, as may be specified in the notification. Such notification may also be published in the regional languages of the area, and in such other manner as the [4][State] Government may deem fit :

[5][Provided that no area within the limits of a municipality shall be included in the area specified in such notification except after consultation with the municipality concerned.]

(*2*) A notification under sub-section (*1*) shall state that any objection or suggestion which may be received by the [4][State] Government within a period of not less than one month to be specified in the notification shall be considered by the [4][State] Government.

Declaration of market areas.

4. (*1*) After the expiry of the period specified in the notification, issued under section 3 and, after considering such objections and suggestions as may be received before such expiry and after holding such inquiry as may be necessary, the [4][State] Government may, by notification in the *Official Gazette*, declare the area specified in the notification under section 3 or any portion thereof to be a market area for the purposes of this Act in respect of all or any of the kinds of agricultural produce specified in the said notification. A notification under this section may also be published in the regional languages of the area in a newspaper circulated in the said area and may also be published in such other manner as the [4][State] Government may deem fit.

[6][(*2*) On and after the date on which any area is declared to be a market area under sub-section (*1*), no place in the said area shall, subject to the provisions of section 5A, be used for the purchase or sale of any agricultural produce specified in the notification issued thereunder :

Provided that pending the establishment of a market in such area under section 5, the State Government may grant a licence to any person to use any place in the said area for the purchase or sale of any such agricultural produce.]

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[1] This clause was inserted, by Bom. 23 of 1954, s. 2(*2*).
[2] This clause was inserted by Bom. 57 of 1948, s. 2.
[3] Clause (*xii*) was added by Bom. 23 of 1954, s. 2 (*3*).
[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[5] This proviso was added by Bom. 36 of 1953, s. 2.
[6] Sub-sections (*2*), (*2A*) and (*2B*) were substituted for the original sub-section (*2*), *ibid.* s. 3.

[1][(*2A*) Nothing in sub-section (*2*) shall apply to the purchase or sale of such agricultural produce, if the producer of such produce is himself its seller and the purchaser is a person who purchases such produce for his own private use or if such agricultural produce is sold to such person by way of a retail sale.

[(*2B*) On and after the date on which any area is declared to be a market area under sub-section (*1*), no municipality or any other local authority, notwithstanding anything contained in any enactment relating to such municipality or authority, shall be competent to establish, authorise or allow to be established any place in the said area for the purchase or sale of any agricultural produce specified in the notification issued under sub-section (*1*).]

(*3*) The [2][State] Government may, on the report of the Director or the Collector or of the market committee or an officer appointed by the [2][State] Government in this behalf and after such inquiry as it deems fit to make, suspend or cancel any licence granted under sub-section (*2*).

(*4*) Subject to the provisions of section 3, the [2][State] Government may at any time by notification in the *Official Gazette* exclude from a market area any area or any agricultural produce comprised therein or include in any market area any area or any agricultural produce included in a notification issued under section 3.

Declaration of market yards.

[3][**4A.** (*1*) For each market area there shall be one principal market yard and one or more sub-market yards, as may be necessary.

(*2*) The State Government may, by notification in the *Official Gazette*, declare any enclosure, building or locality in any market area to be a principal market yard for the area and other enclosures, buildings or localities to be one or more sub-market yards for the area :

Provided that out of the enclosures, buildings or localities declared to be market yards before the commencement of the Bombay Agricultural Produce Markets (Amendment) Act, 1954, one shall be declared to be the principal market yard for the market area and others, if any, to be one or more sub-market yards for the area, subject to such variation as may be necessary.

Bom. XXIII of 1954.

Establishment of market committees.

5. The [2][State] Government shall establish a market committee for every market area in respect of the agricultural produce for which said area is declared to be a market area under section 4. It shall be the duty of the market committee to enforce the provisions of this Act, the conditions of a licence granted under sub-section (*2*) of section 4 and the rules and bye-laws made under this Act in such market area [4]* * * *
and when so required by the [2][State] Government to establish a market therein providing for such facilities as the [2][State] Government may from time to time direct, in connection with the purchase and sale of the agricultural produce concerned.

Issue of licences to operate in market.

[5][**5A.** Where a market is established under section 5, the market committee may issue licences in accordance with the rules to traders, commission agents, brokers, weighmen, measurers, surveyors, warehousemen and other persons to operate in the market :

Provided that no such licence shall be necessary in the case of a person to whom a licence has been granted under sub-section (*2*) of section 4.

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[1] Sub-sections (*2*), (*2A*) and (*2B*) were substituted for the original sub-section (*2*), by Bom. 36 of 1953, s. 3.

[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

[3] Section 4A was inserted by Bom. 23 of 1954, s. 3.

[4] The words, brackets and figures "and within the distance thereof notified under sub-section (*2*) of section 4" were repealed by Bom. 21 of 1954, s.2 First Schedule

[5] Section 5A was inserted by Bom. 36 of 1953, s. 4.

6. [1][(*1*) Every market committee shall be constituted as prescribed and shall consist of the following fifteen members, namely :—

(*i*) seven shall be persons elected by such organizations of agriculturists in the area for which it is established as the State Government may prescribe and where no such organizations exist, by the agriculturists residing in the said area in the manner prescribed ;

(*ii*) four shall be persons elected by the traders approved by the market committee in the prescribed manner :

Provided that one seat out of the members to be elected under this clause shall be reserved for such class of co-operative societies as the State Government may prescribe ;

(*iii*) elected by local authorities as follows :—

(*a*) if in a market area the principal market yard is wholly situated within the limits of a local authority, one person shall be elected by the councillors or members of such local authority ;

(*b*) if in a market area the principal market yard and other sub-market yard or yards are situated within the limits of different local authorities, one person shall be elected by the councillors or members of the local authority within the limits of which the major portion of the principal market yard is situated and one person shall be elected in the prescribed manner by the other local authorities within the limits of which the remaining portion of the principal market yard and sub-market yards either wholly or partially are situated :

Provided that a person to whom a licence has been granted under sub-section (*2*) of section 4 shall not be eligible for election under this clause ;

(*iv*) nominated as follows :—

(*a*) where in the circumstances mentioned in clause (*iii*) the number of persons to be elected by a local authority is one, three persons shall be nominated by the State Government ;

(*b*) where in the circumstances mentioned in clause (*iii*) the number of persons to be so elected is two, two persons shall be nominated by the State Government :

Provided that the State Government may, at any time, reduce the number of nominated members for any market committee and in their place increase the number of members to be elected under clause (*i*) or (*ii*), as it thinks fit.]

(*2*) Notwithstanding anything contained in sub-section (*1*)—

(*a*) on the failure of any organisation, person or authority to elect a member under sub-section (*1*) within a period of [2][three months] from the date of the occurrence of the vacancy, the [3][State] Government shall give notice in writing to the organisation, person or authority concerned to elect a member within a month from the date of such notice and on the failure of the organisation, person or authority again to elect a member within the said period, the [3][State] Government shall nominate a person on behalf of such organisation, person or authority as a member of the market committee ; and

(*b*) subject to the provisions of section 31, when a market committee is constituted for the first time all the members of the market committee shall be persons nominated by the [3][State] Government.

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[1] Sub-section (*1*) was substituted for the original, by Bom. 23 of 1954, s. 4.
[2] These words were substituted for the words "six months" by Bom. 26 of 1951, s. 3 (*2*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

(*3*) Every member of a market committee elected or nominated when it is first constituted shall hold office for a term of two years [1][from the date of the first general meeting of the market committee] and every such member elected or nominated thereafter shall hold office for a term of three years :

* * * * * *

[3](*3A*) The term of office of the outgoing members of a market committee shall be deemed to extend to and expire with the day before the date of the first general meeting of the market committee constituted in its place.

(*3B*) A member elected under sub-section (*1*) shall cease to hold office as such member if he ceases to be a member of the electorate by which or one of the persons by whom he was elected and in the case of a member elected under clause (*iii*) of the said sub-section if he is granted a licence under sub-section (*2*) of section 4.]

(*4*) If at any time a vacancy occurs through the non-acceptance of office by a person elected or nominated or through the death, disqualification or resignation of a member [4][or in the event of his ceasing to be a meleter,] before the expiry of his term of office, the vacancy shall be filled up by the election or nomination, as the case may be, of a person thereto in the manner specified above. Every such person shall hold office so long only as the member in whose place he is elected or nominated would have held it if the vacancy had not occurred.

(*5*) Every market committee shall elect one of its members to be its chairman [5][and another member to be its vice-chairman.]

[6][(*) No act done by a market committee shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the committee.]

CHAPTER III.

Incorporation of Market Committee : Its Powers and Duties.

7. Every market committee shall be a body corporate by such name as the [7][State] Government may specify by notification in the *Official Gazette*. It shall have perpetual succession and a common seal, may sue and be sued in its corporate name and shall be competent to acquire and hold, lease, sell or otherwise transfer any property and to contract and to do all other things necessary for the purposes for which it is established. Incorporation of market committee.

[1] These words wreinsed iserte by Bom. 57 of 1948, s. 4.
[2] The proviso was deeted by Bom. 26 of 1951, s. 3 (*3*).
[3] Sub-sections (*3A*) and (*3B*) were inserted, *ibid.*
[4] Theese words were inserted, *ibid.*, s. 3 (*4*).
[5] Thse words were added by Bom. 57 of 1948, s. 4.
[6] Ths sub-section was inserted by Bom. 26 of 1951, s. 3 (*5*).
[7] Tih word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950,

Appointment of sub-committees and joint-committees: delegation of powers.

8. The market committee may appoint one or more of its members to be a sub-committee or to be a joint committee for the conduct of any work or to report on any matter or matters and may delegate to such committee or any one or more of its members such of its powers or duties as it may think fit.

Appointment and salaries of servants of the market committee.

9. (*1*) The market committee may employ such officers and servants as may be necessary for the management of the market and may pay such officers and servants such salaries as the market committee thinks fit. The market committee shall, in the case of any officer or servant of Government whom it employs, pay such pension contribution, gratuity or leave allowance as may be required by the conditions of his service under the [1][Government] for the time being in force.

(*2*) The market committee may also, in the case of any of its officers and servants, provide for the payment to them of such leave allowances, pensions or gratuities as it deems proper, and may contribute to any provident fund which may be established for the benefit of such officers and servants.

(*3*) The powers conferred by this section on the market committee shall be exercised subject to any rules which may be made in this behalf by the [2][State] Government.

Execution contracts.

10. (*1*) Every contract entered into by the market committee shall be in writing and shall be signed on behalf of the market committee by its chairman and two other members of the committee.

(*2*) No contract other than a contract executed as provided in sub-section (*1*) shall be binding on the market committee.

Power to levy fees.

11. The market committee may subject to the provisions of rules and subject to such maxima as may be prescribed levy fees on the agricultural produce bought and sold by licensees in the market area.

Certain differences regarding construction of rules, etc., about weights and measures to be decided by market committee

12. (*1*) Notwithstanding anything contained in the Bombay Weights and Measures Act, 1932, if any difference arises between an inspector appointed under section 19 of the said Act and any person interested as to the meaning or contruction of any rule or regulation or as to the method of verifying, adjusting or stamping any weight or measure or weighing or measuring instrument in any market area such difference may at the request of the persons interested or by the inspector of his own accord be referred to the market committee and the decision of the market committee shall, subject to the provisions of sub-section (*2*), be final and shall be deemed to have been given under section 25 of the Bombay Weights and Measures Act, 1932.

Bom. XV of 1932.

Bom. XV of 1932.

(*2*) An appeal shall lie within the time prescribed from the decision under sub-section (*1*) to the [2][State] Government or such officer as the [2][State] Government may appoint in this behalf. The decision of the [2][State] Government or such officer shall be final.

Market Committee Fund.

13. (*1*) All monies received by a market committee shall be paid into a fund to be called "the market committee fund" and all expenditure incurred by the market committee under or for the purposes of this Act shall be defrayed out of the said fund. Any surplus remaining with the market committee after such expenditure has been met shall be invested as may be prescribed in this behalf.

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[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Provincial", *ibid.*

(*2*) Every market committee shall pay to the [1][State] Government the cost of any additional or special staff employed by the [1][State] Government in consultation with such market committee for giving effect to the provisions of this Act in the market area for which such market committee is established.

(*3*) The [1][State] Government shall determine the cost of such additional or special staff and shall, when the staff is employed for the purposes of more than one market committee apportion such cost among the committees concerned in such manner as it thinks fit. The decision of the [1][State] Government determining the amount payable by any market committee shall be final.

Purposes for which the fund shall be expended.

14. Subject to the provisions of section 14, the market committee fund shall be expended for the following purposes, namely:—

(*1*) The acquisition of a site or sites for the market;

(*2*) the maintenance and improvement of the market;

(*3*) the construction and repair of buildings necessary for the purposes of such market and for the health, convenience and safety of the person using it;

(*4*) the provision and maintenance of standard weights and measures;

(*5*) the pay, pensions, leave allowances, gratuities, compensations for injuries resulting from accidents, compassionate allowances and contributions towards leave allowances, pensions or provident fund of the officers and servants employed by it;

(*6*) the expenses of and incidental to elections;

(*7*) the payment of interest on the loans that may be raised for the purposes of the market and the provision of sinking fund in respect of such loans;

(*8*) the collection and dissemination of information regarding matters relating to crop statistics and marketing in respect of the agricultural produce notified under section 4;

(*9*) payments of the cost referred to in sub-sections (*2*) and (*3*) of section 13; and

(*10*) propaganda in favour of agricultural improvement.

Power to borrow.

15. (*1*) A market committee may, with the previous sanction of the [1][State] Government, raise money required for carrying out the purposes for which it is established on the security of any property vested in it and of any fees leviable by it under this Act.

(*2*) The market committee may, for the purpose of meeting the initial expenditure on lands, buildings and equipment required for establishing the market, obtain a loan from the [1][State] Government.

(*3*) The conditions subject to which such money or loan shall be raised or obtained and the time within which the same shall be repayable shall be subject to the previous sanction of the [1][State] Government.

Acquisition of land for purposes of this Act.

[2][**16.** (*1*) If, at any time after a notification is issued under sub-section (*1*) of section 4, the State Government is of opinion that any land is needed for the purposes of this Act, the State Government may proceed to acquire it under the provisions of the Land Acquisition Act, 1894, or any other law for the time being in force. I of 1894.

(*2*) When such land vests in the State Government it shall be transferred by the State Government to the market committee, on payment by the market committee of the compensation awarded under the Land Acquisition Act, 1894, or any other law for the time being in force and of all other charges incurred by the State Government on account of the acquisition, within such period and in such manner as the State Government may, by general or special order, determine and on such transfer the land shall vest in the market committee]. I of 1894.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] Section 16 was substituted for the original by the Bom. 36 of 1953, s. 6

CHAPTER IV.

TRADE ALLOWANCES.

No Trade allowance permissible except as prescribed.

17. No person shall make or recover any trade allowance, other than an allowance prescribed by rules or bye-laws made under this Act, in any market area in any transaction in respect of the agricultural produce concerned and no civil court shall, in any suit or proceeding arising out of any such transaction, have regard to or recognise any trade allowance not so prescribed.

Explanation.—Every deduction other than a deduction on account of deviation from sample when the purchase is made by sample or on account of deviation from standard when the purchase is made by reference to a known standard or on account of difference between the actual weight of the container and the standard weight or on account of the admixture of foreign matter, shall be regarded as a trade allowance for the purposes of this section.

CHAPTER V.

MISCELLANEOUS.

Liability of members of market committee to removal from office.

18. (*1*) The [1][State] Government may, if it thinks fit, on the recommendation of the market committee supported by at least two-thirds of the whole number of members, remove any member of the market committee elected or nominated under this Act, if such member has, in the opinion of the [1][State] Government, been guilty of neglect or misconduct in the discharge of his duties or of any disgraceful conduct or has become incapable of performing his duties as a member :

Provided that no resolution recommending the removal of any member shall be passed by the market committee unless the member to whom it relates has been given a reasonable opportunity of showing cause why such recommendation should not be made.

(*2*) The decision of the [1][State] Government under sub-section (*1*) shall be final.

Members to be held responsible for misapplied funds.

[2][**18A.** Every member of the market committee shall be personally liable for the misapplication of any fund to which he shall have been a party, or which shall have happened through, or been facilitated by, gross neglect of his duty as a member, and may be sued for recovery of the moneys so misapplied as if such moneys had been the property of the State Government :

Provided that no member shall be personally liable in respect of any contract or agreement made, or for any expense incurred by, or on behalf of, the market committee ; the funds at the disposal of the market committee shall be liable for, and be charged with, all costs in respect of any such contract and agreement and all such expenses.

Duty of officers and members to furnish information to Director and other authorized officers.

18B. When the affairs of a market committee are investigated or the proceedings of such committee are examined by the Director or any other officer to whom the powers of the State Government have been delegated under section 28, all officers and members of such committee shall furnish such information in their possession in regard to the affairs or proceedings of the committee as the Director or such officer may require.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] Sections 18A, 18B and 18C were inserted by Bom. 23 of 1954, s. 5.

Power to enforce attendance.

18C. An officer investigating the affairs of a market committee or examining the proceedings of such committee under section 18B shall have the power to summon and enforce the attendance of officers or members of the market committee and to compel them to give evidence and to produce documents by the same means and as far as possible in the same manner as is provided in the case of a Civil Court by the Code of Civil Procedure, 1908.] V of 1908.

Supersession of market committee.

19. (*1*) If in the opinion of the [1][State] Government a market committee is not competent to perform or persistently makes default in performing the duties imposed on it by or under this Act or abuses its powers the [1][State] Government may, by notification in the *Official Gazette*, supersede such market committee :

Provided that before issuing a notification under this sub-section, the [1][State] Government shall give a reasonable opportunity to the market committee for showing cause why it should not be superseded and shall consider the explanations and objections, if any, of the market committee.

(*2*) Upon the publication of a notification under sub-section (*1*) superseding a market committee the following consequences shall ensue—

(*i*) all the members as well as the chairman of the market committee shall as from the date of such publication be deemed to have vacated their offices ;

(*ii*) the [1][State] Government may, at their discretion, by order, either constitute a new market committee under section 6 or make such arrangements for the carrying out of the functions of the market committee, as it may think fit ; and

(*iii*) all the assets vesting in the market committee shall, subject to all its liabilities vest in the [2][State Government].

(*3*) If the [1][State] Government makes an order under clause (*ii*) of sub-section (*2*), it shall transfer the assets and liabilities of the market committee as on the date of such transfer, to the new market committee constituted under section 6 or to the person or persons, if any, appointed for carrying out the functions of the market committee, as the case may be.

(*4*) If the [1][State] Government does not make such an order, it shall transfer all the assets of the market committee which remain after the satisfaction of all its liabilities, to the local authority within whose jurisdiction the market committee is situated or if there are more than one such authorities to each of such authorities any such portion of the assets as the [1][State] Government may determine.

(*5*) A local authority to which the assets of a market committee have been transferred under sub-section (*4*) shall utilise such assets for such object in the area within its jurisdiction as the [1][State] Government considers to be for the benefit of the agriculturists in that area.

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[1] This word was substituted for the word "' Provincial" , by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the words " Crown for purposes of the Province " by the Adaptation of Laws Order, 1950.

Penalty for contravention of section 4.

20. Whoever contravenes the provisions of section 4 shall, on conviction, be punishable with fine which may extend to five hundred rupees, and in the case of a continuing contravention with a further fine which may extend to one hundred rupees for every day during which the contravention is continued after first conviction.

Penalty for making or recovering trade allowance other than an allowance prescribed by rules or bye-laws made under this Act.

21. Whoever, in contravention of the provisions of section 17, makes or recovers any trade allowance other than an allowance prescribed by rules or bye-laws made under this Act shall, on conviction, be punishable with fine which may extend to Rs. 200.

Penalty for contravening provisions of section 18B.

[1][21A. If any officer or member of a market committee, when required to furnish information in regard to the affairs or proceedings of a market committee under section 18B,—

(*a*) wilfully neglects or refuses to furnish any information, or

(*b*) wilfully furnishes a false information,

he shall, on conviction, be punished with fine which may extend to Rs. 50.]

Chairman Vice-Chairman, members, secretary and servants of market committee to be public servants.

[2][21B. The Chairman, the Vice-Chairman, the members, the secretary and other officers and servants of a Market Committee shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.]

XLV of 1860.

Bar of suit in absence of notice.

22. (*1*) No suit shall be instituted against any market committee or any member, officer or servant thereof or any person acting under the direction of any such market committee member, officer or servant for anything done or purporting to be done, in good faith as such member, officer or servant under this Act, until the expiration of two months next after notice in writing, stating the cause of action, the name and place of abode of the intending plaintiff and the relief which he claims, has been, in the case of a market committee, delivered or left at its office, and in the case of any such member, officer, servant or person as aforesaid, delivered to him or left at his office or usual place of abode, and the plaint shall contain a statement that such notice has been so delivered or left.

(*2*) Every such suit shall be dismissed unless it is instituted within six months from the date of the accrual of the alleged cause of action.

(*3*) Nothing in this section shall be deemed to apply to any suit instituted under section 54 of the Specific Relief Act, 1877.

I of 1877.

Trial of offences.

23. (*1*) No offence under this Act, or any rule or bye-law thereunder shall be tried by a Court other than that of a Presidency Magistrate or a Magistrate of the First Class or a Magistrate of the Second Class specially empowered in this behalf.

(*2*) Prosecutions under this Act may be instituted by any person duly authorised in writing by the market committee in this behalf.

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[1] Section 21A was inserted by Bom. 23 of 1954, s. 6.

[2] Section 21B was inserted by Bom. 2 of 1955, s. 3, Second Schedule.

Recovery of sums due to Government from market committee.

24. Every sum due from market committee to the [1][State] Government shall be recoverable as an arrear of land revenue.

Power of the [1][State] Government to delegate its powers.

25. The [1][State] Government may delegate to any officer any of the powers conferred on it by or under this Act.

Rules.

26. (*1*) The [1][State] Government may, either generally or specially for any market area or market areas, make rules for the purposes of carrying out the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, such rules may provide for or regulate :—

(*a*) the election and nomination of members of the market committee, the manner of election, the preparation and revision of lists of voters from time to time and the payment of all expenditure in connection with or incidental to such election ;

(*b*) the powers to be exercised [2][and the duties to be performed] by the market committee [3][and its chairman] ;

(*c*) the election of the chairman [1][and the vice-chairman] of the market committee and [4][their] term of office ,

(*d*) the filling of casual vacancies in the office of chairman, [5][vice-chairman] or member of the market committee ;

[6][(*e*) the management of the market, maximum fees which may be levied by the market committee in respect of agricultural produce bought and sold by persons holding a licence under the Act in the market area ;]

(*f*) the issue of licenses to [7][traders, commission agents, brokers, weighmen, measurers, surveyors, warehousemen and other persons operating in the market] the form in which, and the conditions subject to which such licenses shall be issued or renewed [8]* * * * * * and the fees to be charged therefor ;

(*g*) the kind and description of the weights and measures and the weighing and measuring instruments which alone shall be used in transactions in the agricultural produce in a market area ;

(*h*) the periodical inspection of all weights and measures and weighing and measuring instruments in use in a market area ;

(*i*) the manner of control and supervision to be exercised by the market committee over inspectors appointed under section 19 of the Bombay Weights and Measures Act, 1932 ; Bom. XV of 1932.

(*j*) the time within which an appeal shall lie to the [1][State] Government or the Officer appointed by it in that behalf under sub-section (*2*) of section 12 ;

(*k*) the trade allowance which may be made or received by any person in any transaction in the agricultural produce in a market area ;

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were inserted by Bom. 57 of 1948, s. 5.
[3] These words were inserted by Bom. 26 of 1951, s. 4 (*1*).
[4] This word was substituted for the word "his", *ibid.*
[5] This word was inserted, *ibid.*
[6] This clause was substituted for the original, *ibid.*
[7] These words were substituted for the words "brokers, weighmen, measurers and surveyors" *ibid.*
[8] The words "and the conditions subject to which the licensees shall carry on their business" were deleted, *ibid.*

(*l*) the provision of facilities for the settlement of any dispute between a buyer and seller of agricultural produce or their agents including disputes regarding the quality or weight of the article, the allowances for wrappings, containers, dirt or impurities or deductions from any cause ;

(*m*) the prohibition of brokers from acting in any transaction on behalf of both the buyer and seller of agricultural produce or as a buyer or seller ;

(*n*) the provision of accommodation for storing any agricultural produce brought into the market ;

(*o*) the preparation of plans and estimates for works proposed to be constructed partly or wholly at the expense of the market committee, and the grant of sanction to such plans and estimates ;

(*p*) the form in which the accounts of a market committee shall be kept, the audit [1][inspection] and publication of such accounts [2][the] charges, if any, to be made for such audit [3][and the inspection of audit memoranda of the accounts and supply of copies of such memoranda] ;

(*q*) the preparation and submission for sanction of the annual budget and the report and returns to be furnished by a market committee ;

(*r*) the investment and disposal of the surplus funds of a market committee ;

(*s*) the regulation of advances, if any, given to agriculturists by brokers [4][commission agents or traders] ;

(*t*) the prevention of adulteration of the agricultural produce ;

(*u*) the grading and standardisation of the agricultural produce ;

(*v*) the keeping of a list of prices of agricultural produce in respect of which the market is established ;

[5][(*w*) the manner in which auctions of agricultural produce shall be conducted and bids made and accepted in any market ;

(*x*) the recovery and disposal of fees leviable by or under the Act].

(*3*) Any rule made under this Act may provide that any contravention thereof or of any of the conditions of any license issued or renewed thereunder shall, on conviction, be punishable with fine which may extend to Rs. 200.

(*4*) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(*5*) Rules made under this section shall be laid before each of the [6][Houses] of the [7][State] Legislature at the session thereof next following and shall be liable to be modified or rescinded by a resolution in which both [6][Houses] concur and such rules shall, after notification in the *Official Gazette*, be deemed to have been modified or rescinded accordingly :

Provided that when, in the opinion of the [7][State] Government, such modification or rescission is likely to defeat or frustrate any of the purposes of this Act, the [7][State] Government may, by notification in the *Official Gazette*, declare that the modification or rescission shall have no effect and thereupon the rule shall remain in force as if it had not been modified or rescinded.

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[1] The word " inspection ", was inserted by Bom. 23 of 1954, s. 7.
[2] This word was substituted for the words " and the " by Bom. 26 of 1951, s. 4 (2).
[3] These words were inserted, *ibid.*
[4] These words were substituted for the words " or dalal " by Bom. 57 of 1948, s. 5.
[5] These clauses were inserted, *ibid.*
[6] This word was substituted for the word " chambers " by the Adaptation of Laws Order, 1950.
[7] This word was substituted for the word " Provincial " *ibid.*

Bye-laws.

27. (*1*) Subject to any rules made by the [1][State] Government under section 26 and with the previous sanction of the Director or any other officer specially empowered in this behalf by the [1][State] Government, the market committee may in respect of the market area under its management make bye-laws for the regulation of the business and the conditions of trading therein.

(*2*) Any bye-law made under this section may provide that any contravention thereof shall, on conviction, be punishable with fine which may extend to [2][Rs. 100].

Power of [1][State] Government to call for proceedings of market committee and to pass orders thereon.

28. The [1][State] Government may at any time call for and examine the proceedings of any market committee for the purpose of satisfying itself as to the legality or propriety of any decision or order passed by the market committees under the rules. If in any case, it appears to the [1][State] Government that any decision or order or proceedings so called for should be modified, annulled or reversed, the [1][State] Government may pass such order thereon as it thinks fit.

Power of [1][State] Government to amend the Schedule.

29. The [1][State] Government may, by notification in the *Official Gazette* add to, amend or cancel any of the items of agricultural produce specified in the Schedule.

Validation of acts of Directors.

[3][**29A.** Notwithstanding anything contained in this Act, all reports submitted under sub-section (*3*) of section 4 and sanctions given to bye-laws under sub-section (*1*) of section 27 and all things done by or on behalf of the Director of Agricultural Marketing and Rural Finance for the Province of Bombay purporting to act in exercise of the powers as the Director before the date on which the Bombay Agricultural Produce Markets (Amendment) Act, 1948, came into force, shall be deemed to be and always to have been validly submitted, given or done, as the case may be, as required by or under this Act and shall not be deemed to be invalid or called in question merely on the ground that such report was submitted or sanction was given or thing was done by or on behalf of the said Director of Agricultural Marketing and Rural Finance before the said date].

Bom. LVII of 1948.

Savings.

30. Nothing contained in the Markets and Fairs Act, 1862, or in any law for the time being in force relating to the establishment, maintenance or regulation of a market shall apply to any market area or affect in any way the powers of a market committee or the rights of a holder of a license granted under sub-section (*2*) of section 4 to set up, establish or continue or to allow to be set up, established or continued, any place for the purchase or sale of any agricultural produce notified under sub-section (*1*) of section 4 in such area [4][or the rights of a holder of a licence granted under section 5A.]

Bom. IV of 1862.

Repeal of Bom. XVII of 1927.

31. The Bombay Cotton Markets Act, 1927, is hereby repealed :

Provided that, notwithstanding anything contained in section 6, any local area declared to be a cotton market under section 4 of the Bombay Cotton Markets Act, 1927, shall be deemed to be a market area under this Act and the market committee constituted for the said market under section 5 of the said Act and holding office immediately prior to the date on which this Act comes into force shall be deemed to be the market committee under this Act for the said market area. All the members of such committee shall be deemed to be members nominated by the [1][State] Government under sub-section (*2*) of section 6.

Bom. XVII of 1927.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These letters and figures were substituted for the letters and figures "Rs. 50" by Bom. 36 of 1953, s. 7.
[3] This section was inserted by Bom. 57 of 1948, s. 6.
[4] This portion was inserted by Bom. 36 of 1953, s. 8.

SCHEDULE.

[*See* SECTION 2 (*1*) (*i*)]

I. *Fibres*—

(1) Cotton (ginned and unginned).
[1][(2) Sanhemp.]

II. *Cereals*—

(1) Wheat.
(2) Paddy (husked and unhusked).
(3) Jowar.
(4) Bajri.
(5) Nagli.
(6) Vari.
(7) Kodra.
(8) Maize.
[1][(9) Sarsav.]
[2][(10) Bavto.]
[3][(11) Barley.]
[4][(13) Banti.
(14) Chino.]

III. *Pulses*—

(1) Tur.
(2) Gram.
(3) Udid.
(4) Mung.
(5) Val.
[5][(6) Chola.
(7) Lang.
(8) Math.]
[6][(9) Peas.]
[7][(10) Kulthi.
(11) Splits (Dal) of pulses.]
[8][(12) Masur.]

IV. *Oilseeds*—

(1) Groundnut (shelled and unshelled).
(2) Linseed.
(3) Sesamum.
(4) Safflower.
(5) Ambadi.
(6) Cocoanut.

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[1] This entry was added by G. N., R. D., No. 7590/45, dated the 16th March 1948.
[2] This entry was added by G. N., R. D., No. 7905/45(*a*), dated the 13th May 1948.
[3] This entry was added by G. N., R. D., No. 7171/45, dated the 6th August 1948.
[4] These entries were added by G. N., D. D., No. PMA. 2951, dated the 5th March 1951.
[5] These entries were added by G. N., R. D., No. 7590/45, dated the 16th March 1948.
[6] This entry was added by G. N., R. D., No. 6839/45, dated the 12th August 1949.
[7] These entries were added by G. N., D. D., No. 191, dated the 15th June 1950.
[8] This entry was added by G. N., D. D., No. PMA, 2950, dated the 20th November 1950.

(7) Cotton seed.
(8) Castor seed.
[1][(9) Khursani].
[2][(10) Niger-seed].

V. *Narcotics*—
(1) Tobacco.

[3][VI. *Gul, sugar and sugarcane.*]
VII. *Fruits*—
(1) Mango.
(2) Mosambi.
(3) Santra.
(4) Lemon.
(5) Banana.
(6) Grapes.
(7) Pomegranate.
(8) Fig.
(9) Chickoo.
(10) Strawberry.
(11) Melons.
[4][(12) Water Melon.
(13) Papaya.
(14) Guava.
(15) Bor.
(16) Falsa].

VIII. *Vegetables*—
(1) Potato.
(2) Onion.
(3) Tomato.
(4) Suran.
(5) Leafy and fresh vegetables.
[5][(6) Yam.
(7) Sweet potatoes.]
[6][(8) Kochara.]

IX. *Animal Husbandry Products*—
(1) Eggs.
(2) Poultry.
(3) Cattle.
(4) Sheep.
(5) Goat.
(6) Wool.
(7) Butter.
(8) Ghee.
(9) Milk.

[1] This entry was added by G. N., R. D., No. 6839/45, dated the 12th August 1949.
[2] This entry was added by G. N., D. D., No. 191, dated the 28th October 1949.
[3] This item was substituted for the original by G. N., R. D., No. 991/33, dated the 5th April 1941.
[4] These entries were added by G. N., D. D., No. 2863/45-V, dated the 26th September 1949.
[5] These entries were added by G. N., R. D., No. 7590/45, dated the 16th March 1948.
[6] This entry was added by G. N., D. D., No. 191, dated the 28th October 1949.

X. *Condiments, spices and others—*

(1) Turmeric.
(2) Ginger.
(3) Garlic.
(4) Corriander.
(5) Chillies.
(6) Cardamom and pepper.
(7) Variali.
(8) Betelnuts.
(9) Betel leaves.
(10) Cashewnuts.
[1][(11) Cummin (Jiru).
(12) Rai.
(13) Methi.]
[2][(14) Isabgul.]

XI. *Grass and fodder.*

[3][XII. *Cattle Feeds—*

(1) Guwar.
(2) Punvad.]

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[1] These entries were added by G. N., R. D., No. 7905/45(a), dated the 13th May 1948.
[2] This entry was added by G. N., D. D., No. PMA., 2951, dated the 5th March 1951.
[3] This item was added by G. N., D. D., No. 191, dated the 28th October 1949.

THE BOMBAY FODDER AND GRAIN CONTROL ACT, 1939.

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BOMBAY ACT No. XXVI OF 1939.[1]

[THE BOMBAY FODDER AND GRAIN CONTROL ACT, 1939.]

[*12th December 1939.*]

Amended by Bom. 17 of 1941.*

An Act to provide for the control and regulation of supply and distribution of fodder and grain including regulation of prices thereof in the Province of Bombay on occasions of famine or scarcity.

WHEREAS it is expedient to provide for the control and regulation of supply and distribution of fodder and grain including regulation of prices thereof in the Province of Bombay on occasions of famine or scarcity; It is hereby enacted as follows :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Fodder and Grain Control Act, 1939.

(*2*) It shall extend to the whole of the Province of Bombay.

(*3*) It shall come into force with effect from such date as the Provincial Government may by notification in the Official Gazette appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) "Famine area" means any area declared to be famine area under section 3;

(*2*) "Scarcity area" means any area declared to be a scarcity area under section 3;

(*3*) "Standard price" means the maximum price fixed for sale of fodder or grain under section 3.

Power to declare famine and scarcity areas and to fix standard prices.

3. (*1*) The Provincial Government may, from time to time, by notification in the Official Gazette, declare that a state of famine or scarcity prevails in any local area in the Province; and thereupon the said area shall be deemed to be a famine area or a scarcity area, as the case may be, for the purposes of this Act for such period as the Provincial Government may direct

(*2*) On a declaration being made under sub-section (*1*), the Provincial Government may also by like notification declare that all contracts for the sale of fodder or grain of any kind entered into on or after the date specified in the notification shall be subject to the provisions of this Act.

(*3*) The Provincial Government may, by notification in the Official Gazette, fix a standard price for the sale of fodder or grain in any famine area or scarcity area or in such other area as may be specified in the notification.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1939, Part V, p. 445 or Bombay Legislative Assembly Debates, 1939, Vol. 7, p. 2342 or Bombay Legislative Council Debates, 1939, Vol. 8, p. 484.

For Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1939, Vol. 7 pp. 826–33, 864–94 and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1939, Vol. 8, pp. 315-22.

* This Act was re-enacted by Bom. 11 of 1948, s. 2.

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Sum in excess of the standard price not to be recovered.

4. (*1*) No person shall recover on account of sale of fodder or grain of any kind in any area for which a standard price has been fixed under sub-section (*3*) of section 3 any sum in excess of the standard price.

Vendor to give receipt to purchaser.

(*2*) Every vendor of grain or fodder or any person acting on his behalf selling fodder or grain in any area referred to in sub-section (*1*) shall give to the purchaser a receipt showing the sum received as the consideration for the sale, the quantity and the quality of fodder or grain sold

Prohibition against removal of fodder or grain from any local area.

5. (*1*) After the Provincial Government has made a declaration under sub-section (*1*) of section 3 that a state of famine or scarcity prevails in any local area and during the period for which such delaration is in force, the Provincial Government may, at any time, on being satisfied that it is necessary for the relief of poor persons or for the protection of agriculture or for the preservation of public health in such famine area or scarcity area that the removal of fodder or grain of any kind from such famine area or scarcity area or from any other local area should be restricted, direct, by notification in the Official Gazette, that no person shall remove from the local area mentioned in the notification such fodder or grain without permission in writing of the Collector or such other officer as may be authorised by him in this behalf.

(*2*) On such direction being issued no person shall remove [1][or attempt to remove] from the local area mentioned in the notification any such fodder or grain [2][without obtaining permission in the manner provided in sub-section (*1*) for the removal of such fodder or grain.]

Sums in excess of standard price not to be recoverable.

6. (*1*) Any sum agreed to be paid as consideration for the sale of fodder or grain of any kind in excess of the standard price shall be irrecoverable.

(*2*) If any such sum has been paid, it shall be recoverable by the person paying the same from the person to whom it was paid.

Penalty for contravention of section 4 or 5.

7. Whoever contravenes any of the provisions of section 4 or 5 shall, on conviction, be punishable with imprisonment for a term which may extend to two years or with fine which may extend to Rs. 1,000 or with both.

Rules.

8. The Provincial Government may by notification in the Official Gazette make rules for carrying out the provisions of this Act.

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[1] These words were inserted by Bom. 17 of 1941, s. 2, read with Bom. 11 of 1948, s. 2.

[2] These words were substituted for "without permission in the manner provided in sub-section (*1*)", *ibid.*

*BOMBAY ACT No. II OF 1942.[1]

[THE LOCAL AUTHORITIES LOANS (BOMBAY AMENDMENT) ACT, 1942.]

[*17th February 1942.*]

An Act to amend the Local Authorities Loans Act, 1914, [2]in its application to the Province of Bombay.

IX of 1914. WHEREAS it is expedient to amend the Local Authorities Loans Act, 1914, in its application to the Province of Bombay;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title. 1. This Act may be called the Local Authorities Loans (Bombay Amendment) Act, 1942.

Amendment of section 7 of Act IX of 1914. 2. After clause (*b*) of the proviso to section 7 of the Local Authorities Loans Act, 1914, in its application to the Province of Bombay, the following shall be inserted, namely:—

IX of 1914.

"or

Bom. VI of 1923. (*c*) to preclude any district local board established under section 4 of the Bombay Local Boards Act, 1923, from receiving an advance from the Government of Bombay equivalent to the amount of the cess, levied under sub-section (*1*) of section 93 of the said Act, which has not been collected or the collection of which has been suspended under sub-section (*2*) of the said section 93."

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[1] For the Statement, *see Bombay Government Gazette*, 1942, Part IV, p. 25.

[2] Central Acts, Vol. VI.

*This Act was repealed and re-enacted by Bom. 50 of 1947, s. 2.

THE BOMBAY LAND IMPROVEMENT SCHEMES ACT, 1942.

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†BOMBAY ACT No. XXVIII OF 1942.[1]

[THE BOMBAY LAND IMPROVEMENT SCHEMES ACT, 1942.]

[*25th January 1943*]

Amended by Bom. 3 of 1944.†
" " " 7 of 1945.†[2]
" " " 73 of 1948.
" " " 38 of 1949.
Repealed in part and amended by Bom. 53 of 1949.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 8 of 1953.
" " " 51 of 1954.

An Act to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenues of the Province.

WHEREAS it is expedient to provide for the making and execution of schemes relating to the construction of tanks, embankments and other works, the prohibition and control of grazing for the purposes of preservation of soil, prevention of soil erosion, improvement of water supply and other matters in order thereby to protect and improve lands and crops in the Province of Bombay and for charging certain expenditure on the revenues of the Province ;

26 Geo. 5, ch. 2. AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Land Improvement Schemes Act, 1942.

(*2*) It shall extend to the whole of the [3][State] of Bombay.

(*3*) It shall come into force in such area and on such date as the [4][State] Government may, by notification in the *Official Gazette*, direct.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " Board " means a Board constituted under section 3.

[5][(*2*) " Director of Agriculture " means the officer appointed for the time being to be the Director of Agriculture and includes any officer appointed by the [4][State] Government to perform the duties of the Director of Agriculture under this Act.

(*2A*) " Divisional Soil Conservation Officer " means the officer appointed for the time being to be the Divisional Soil Conservation Officer.

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†These Acts were repealed and re-enacted by Bom. 29 of 1948, s. 2.
[1] For Statement, see *Bombay Government Gazette*, 1943, Part IV, page 44.
[2] For retrospective operation of this Act, *see* sec. 22, Bom. 7 of 1945.
[3] This word was sub-stituted for the word " Province " by the Adaptation of Laws Order, 1950.
[4] This word was substituted for the word " Provincial ", *ibid.*
[5] Clauses (*2*), (*2A*) and (*2B*) were substituted for clause (*2*) by Bom. 73 of 1948, s. 2.

(*2B*) " District Agricultural Officer " means the officer appointed for the time being to be the District Agricultural Officer.]

[1][(*2C*) " Executing Officer " means an officer appointed by the Board under sub-section (*1*) of section 11].

(*3*) " Inquiry Officer " means an officer appointed as such by the Board.

(*4*) " Owner " includes an owner in severalty, in common or joint, an occupant as defined in the Bombay Land Revenue Code, 1879, a privileged occupant as defined in the Khoti Settlement Act, 1880, [2][a tenant] and a mortgagee in possession [3][and the expressions " owning " and " own " shall be construed accordingly.] Bom. V of 1879. Bom. I of 1880.

(*5*) " Prescribed " means prescribed by rules made under this Act

[4]* * * * * *

(*7*) " Scheme " means a land improvement scheme prepared under this Act.

[5][(*7A*) " Soil Conservation Officer " means the officer appointed for the time being to be the Soil Conservation Officer.

(*7B*) " Tenant " means an agriculturist who holds land on lease and includes a person lawfully cultivating any land belonging to another person if such land is not cultivated personally by the owner and if such person is not—

(*a*) a member of the owner's family, or

(*b*) a servant on wages payable in cash or kind but not in crop share or a hired labourer cultivating the land under the personal supervision of the owner or any member of the owner's family.

Explanation.—A person shall not be deemed to be a tenant under this Act if such person has been on an application made by the owner of the land as provided under section 2A of the Bombay Tenancy Act, 1939, declared by a competent authority not to be a tenant.] Bom. XXIX of 1939.

(*8*) The words and expressions used in this Act, but not defined, shall have the meaning assigned to them in the Bombay Land Revenue Code, 1879. Bom. V of 1879.

CHAPTER II.

Constitution of Boards and Preparation of Land Improvement Schemes.

Constitution of Boards.

3. [6][(*1*) The [7][State] Government shall constitute in each district a Board consisting of the Collector, the District Agricultural Officer, the Divisional Soil Conservation Officer and such non-official persons not exceeding two as may be appointed by the [7][State] Government.

(*1A*) The Divisional Soil Conservation Officer shall be the Secretary of the Board.]

(*2*) If there is a difference of opinion among the members of the Board regarding any question under the provisions of this Act the decision of the majority of the members shall prevail.

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[1] Clause (*2A*) which was renumbered as clause (*2C*) by Bom. 73 of 1948, s. 2(*b*), was inserted by Bom. 7 of 1945, s. 2(*a*), read with Bom. 29 of 1948, s. 2.

[2] These words were substituted for the original by Bom. 73 of 1948, s. 2(*c*).

[3] These words were added, *ibid.*

[4] Clause (*6*) was deleted by Bom. 53 of 1949, s. 2, First Schedule.

[5] Clauses (*7A*) and (*7B*) were inserted by Bom. 73 of 1948, s. 2(*d*).

[6] Sub-sections (*1*) and (*1A*) were substituted for sub-section (*1*), *ibid.* s. 3.

[7] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Power of Board to direct preparation of land improvement scheme and matters for which scheme may be prepared.

4. (*1*) The Board may direct the preparation of a land improvement scheme of any area within its jurisdiction. A scheme may make provision for any of the following matters, namely :—

(*i*) preservation and improvement of soil ;
(*ii*) prevention of erosion of soil ;
(*iii*) improvement of water supply ;
(*iv*) introduction of dry farming methods ;
(*v*) improvement in the methods of cultivation ;
(*vi*) reclamation of waterlogged land or of land from the sea ;
(*vii*) prohibition or control of grazing ;
(*viii*) control and maintenance of tree growth ;
[1][(*viiia*) regulation or prohibition of firing of vegetation ;]
[2][(*viiib*) cultivation of waste or fallow land ;]
[3][(*viiic*) eradication of hariyali or any other kind of weed or vegetation which is likely injuriously to affect, or interfere with, cultivation ;]
(*ix*) such other matters not inconsistent with the objects of this Act as may be prescribed.

[4][(*2*) On such direction being issued by the Board, the Board shall appoint an officer to prepare, in accordance with such instructions as it may issue, a draft scheme containing the following particulars, namely :—

(*i*) the objects of the scheme ;
(*ii*) the approximate area of the lands to be included in the scheme ;
(*iii*) the work or kind of work to be carried out under the scheme ;
(*iv*) the agency or agencies through which the work shall be carried out ;
(*v*) such other particulars as may be prescribed.]

Publication of scheme and inviting objections.

[5]**[5.** (*1*) The draft scheme prepared under section 4 shall be submitted to the Board which shall either approve the scheme with or without modifications and appoint an Inquiry Officer, or reject it.

(*2*) The scheme approved by the Board under sub-section (*1*) shall be published in the *Official Gazette* and in the village and at the headquarters of the taluka or mahal and of the district in which the lands proposed to be included in the scheme are situate.

(*3*) The Board shall, [6][simultaneously with the publication of the scheme in the *Official Gazette* under sub-section (*2*)] require all persons affected by the scheme who wish to make any objections to the scheme or part thereof to submit their objections in writing to the Inquiry Officer or appear before him, within twenty-one days of [7][such publication.]

Report of Inquiry Officer.

6. (*1*) The Inquiry Officer shall hear such objections as are made to him in person, consider all objections duly submitted under section 5 and submit his report together with the objections to the Board.

(*2*) The Inquiry Officer may, while submitting his report under sub-section (*1*), recommend any modifications which in his opinion are required in any of the particulars contained in the scheme approved by the Board under sub-section (*1*) of section 5.]

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[1] Clause (*viii-a*) was inserted by Bom. 7 of 1945, s. 4(*i*), read with Bom. 29 of 1948, s. 2.
[2] This clause was inserted by Bom. 73 of 1948, s. 4.
[3] This clause was inserted by Bom. 38 of 1949, s. 2.
[4] Sub-section (*2*) was substituted by Bom. 7 of 1945, s. 4 (*iii*), read with Bom. 29 of 1948, s.2.
[5] Sections 5 and 6 were substituted for the original sections, *ibid.*, s. 5.
[6] These words, brackets and figures were substituted for " on publication of the Scheme " by Bom. 3 of 1948, s. 5 (*a*).
[7] These words were substituted for " the publication of the Scheme in the *Official Gazette* under sub-section (*2*) " *ibid*, s. 5 (*b*).

7. [*Decision of disputed claims.*] *Rep. by Bom. 7 of 1945, s. 6, read with Bom. 29 of 1948, s. 52.*

8. [*Report of Inquiry Officer.*] *Rep. by Bom. 7 of 1945, s. 6, read with Bom. 29 of 1948, s. 2.*

Power of Board to sanction scheme with or without modifications.

[1][**9.** (*1*) After consideration of the objections and the report submitted under sub-section (*1*) of section 6 and of any further report which the Board may require the Inquiry Officer to submit, the Board may sanction the scheme with or without modifications or reject it:

Provided that if not less than 33 per cent. of the total number of the owners of the land included in the scheme other than the Crown, or owners other than the Crown owning in the aggregate not less than 33 per cent. of the land included in the scheme have made objections to the scheme or part thereof, the Board shall submit the scheme to the Provincial Government for its orders. The Provincial Government may thereupon sanction the scheme with or without modifications or reject it.

(*2*) The scheme as sanctioned under sub-section (*1*) shall be published in the *Official Gazette*, and in the village and at the headquarters of the taluka or mahal and of the district in which the lands included in the scheme are situate and shall on such publication be final.]

Effect of scheme.

10. On the date on which the scheme is published in the *Official Gazette* under sub-section [2][(*2*)] of section 9, it shall come into force and shall have effect as if it were enacted in this Act.

Power of Provincial Government or of Board to make regulations.

[3][**10A.** For the purpose of carrying out the objects of a scheme which has come into force under section 10, [4][the Provincial Government or] the Board may make regulations requiring any person or [5]* * persons or the public generally to take certain action or to refrain from doing certain acts in respect of any matters supplementary and incidental to the scheme.]

CHAPTER III.

EXECUTION OF THE SCHEME.

Power to enforce scheme.

[6][**11.** (*1*) After a scheme has come into force under section 10, the Board shall appoint an officer to execute it.

(*2*) Every owner of land included in the scheme shall pay the costs or part costs, as the case may be, of the works which under the scheme are carried out by the Crown in his land at the cost or part cost of the owner.

(*3*) If any owner of the land included in the scheme desires to carry out himself any works which under the scheme are to be carried out in his land by the Crown at the cost or part cost of the owner, he shall give notice in writing to that effect to the Executing Officer within twenty-one days of the publication of the scheme in the *Official Gazette* under section 9.

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[1] This section was substituted for the original by Bom. 7 of 1945, s. 7 read with Bom. 29 of 1948, s. 2.

[2] The brackets and figure "(*2*)" were substituted for the brackets and figure "(*3*)" *ibid.*, s. 8.

[3] This section was inserted by Bom. 3 of 1944, s. 2, read with Bom. 29 of 1948, s. 2.

[4] These words were inserted by Bom. 7 of 1945 s. 9, read with Bom. 29 of 1948, s. 2.

[5] The words "class of" were deleted by Bom 73 of 1948, s. 6.

[6] This section was substituted for the original by Bom. 7 of 1945, s. 10, read with Bom. 29 of 1948, s. 2.

(*4*) On receipt of such notice, the Executing Officer shall inform the owner of the works which are to be carried out in his land, and shall fix the date before which the owner shall carry out the works.

(*5*) If such owner fails to carry out any work to the satisfaction of the Executing Officer before the date fixed by him or at any time expresses in writing to the Executing Officer his inability to do so, the Executing Officer may himself get the work carried out and the expenses incurred by the Executing Officer for the purpose shall be recovered from the owner.

(*6*) Where the owner of any land included in the scheme is the [1][Government], the Department of Government which has the control or management of such land, or the Executing Officer directed in this behalf by the Board or the [2][State] Government, as the case may be, shall carry out the works which the [1][Government] is liable to carry out under the scheme.]

Liability of persons whose land are not included in scheme to contribution.

12. (*1*) If, in consequence of any work carried out [3]* * * * under the scheme [4][any person, including the [1][Government] other than the owner of the land in which the work is done,] is likely to be benefited, he shall pay such amount [5][as the [2][State] Government may determine as contribution to the owner of the land, if the work has been carried out by the owner, or to the [2][State] Government, if the work has been carried out by the Executing Officer] :

Provided that the [2][State] Government may excuse payment of such contribution in whole or in part in respect of any work carried out by it [6][in land belonging to the [1][Government].

[7][(*2*) The amount shall be paid within such time as may be specified by the [2][State Government].

Penalty.

[8][**12A.** Any person who contravenes or causes any contravention of any of the provisions of a scheme which has come into force under section 10, or any of the regulations made under section 10A, or does any act which causes damage to any of the works carried out under the scheme, or fails to fulfil any liability imposed upon him under section 13 or sub-section [9][(*4*)] of section 25 [10][or of section 25A] shall, on conviction, be punishable with fine which may extend to fifty rupees or with simple imprisonment for a period which may extend to one month, or with both.]

CHAPTER IV.

MAINTENANCE, REPAIR AND USE OF WORKS CARRIED OUT UNDER THE SCHEME.

Statement.

[11][**13.** (*1*) The Executing Officer shall prepare a statement giving for any specified area the following particulars—

(*a*) (*i*) the work done ;

(*ii*) the cost thereof ;

(*iii*) the total amount to be recovered from the owners ;

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[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[2] This word was substituted for the word "Provincial", *ibid.*

[3] The words "by the owner of any land" were deleted by Bom. 7 of 1945, s. 11(*i*), read with Bom. 29 of 1948, s. 2.

[4] These words were substituted for the words "any other person, including the Crown", *ibid.*, s. 11 (*ii*).

[5] These words were substituted for the words "to the owner of the land as contribution as the Board may determine" by Bom. 73 of 1948, s. 7 (*a*).

[6] These words were inserted by Bom. 7 of 1945, s. 11 (*iv*), read with Bom. 29 of 1948, s. 2.

[7] This sub-section was substituted for the original by Bom. 73 of 1948, s. 7 (*b*).

[8] This section was inserted by Bom. 3 of 1944, s. 3, read with Bom. 29 of 1948, s. 2.

[9] The brackets and figure "(*4*)" were substituted for the brackets and figure "(*5*)" by Bom. 7 of 1945, s. 12, read with Bom. 29 of 1948, s. 2.

[10] The words, figures and letter "or of section 25A" were inserted by Bom. 51 of 1954, s. 2.

[11] This section was substituted for the original, by Bom. 7 of 1945, s. 13.

(*iv*) the general rate per acre or per rupee of assessment per annum at which such amount is to be recovered from the owners ;

(*v*) the period within which such amount is to be recovered ;

[1][(*vi*) the work which, in his opinion, shall be maintained and repaired individually or jointly and the names of such person or persons ;]

(*b*) If in the case of any survey number or sub-division of a survey number the owner is not liable to maintain or repair works therein, or if the cost is to be recovered from an owner at a rate other than the general rate, a list of such survey numbers or sub-divisions, and the rate at which the cost is to be recovered from the owner of such survey numbers or sub-divisions ;

(*c*) a map showing the work carried out in the village ;

(*d*) such other matters as may be prescribed.

(*2*) When the statement is prepared under this section any rights and liabilities shown therein shall be entered in the record of rights maintained under Chapter X-A of the Bombay Land Revenue Code, 1879, and in the village accounts in such manner as the [2][State] Government may prescribe and shall thereupon form part of such record of rights and of the village accounts.] Bom. V of 1879.

Obligation of persons to maintain and repair works.

[3][**14.** (*1*) Every person shown in the statement prepared under section 13 as liable to maintain and repair work shall, to the satisfaction of [4][the Divisional Soil Conservation Officer] and within such time as the said officer may fix, maintain and repair the work in his own land and in any other land in respect of which he is shown as liable in the said statement.

(*2*) If such person fails to maintain or repair the work within the time fixed by [4][the Divisional Soil Conservation Officer] under sub-section (*1*), [4][the Divisional Soil Conservation Officer] shall himself get the work maintained or repaired and the cost of so doing shall be recovered from the person.]

[5][(*3*) If [4][the Divisional Soil Conservation Officer] is of opinion that an emergency has arisen and that the immediate repair of any work referred to in sub-section (*1*) is necessary in the general interest, he shall carry out such repair and the cost of such repair shall be paid by the owner of the land on which the repair has been] carried out.

(*4*) [4][The Divisional Soil Conservation Officer] shall, as soon as practicable, make report to the [2][State] Government regarding such repair.]

CHAPTER V.

MISCELLANEOUS.

Payment and recovery of amount.

[6][**15.** Any amount or instalment thereof payable under section 11, 12 [7][or 14] which is not paid on the date when it becomes due under this Act shall be deemed to be an arrear of land revenue due on account of the land for the benefit of which the scheme has been sanctioned under this Act or the work is or repairs are carried out and shall be recoverable as such arrear by any of the methods specified in section 150 of the Bombay Land Revenue Code, 1879.] Bom. v of 1879.

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[1] This clause was substituted for the original by Bom. 73 of 1948, s. 8.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This section was substituted for the original by Bom. 7 of 1945, s. 14, read with Bom. 29 of 1948, s. 2.

[4] These words were substituted for the words "the Land Improvement Officer", by Bom. 53 of 1949, s. 3, Second Schedule.

[5] These sub-sections were added by Bom. 73 of 1948, s. 9.

[6] This section was substituted for the original, *ibid.*, s. 10.

[7] The word, and figures "or 14" were substituted for the figures, word and letter "14 or 25A" by Bom. 8 of 1953, s. 2.

Right of entry.

16. For the purpose of preparing, sanctioning or executing any scheme [1][or repairing or maintaining any works under any scheme], any person authorised by [2][the Board, the Collector] or [3][the Divisional Soil Conservation Officer] may, after giving such notice as may be prescribed to the owner, occupier or other person interested in any land, enter upon, survey and mark out such land, and do all acts necessary for such purpose.

Inquiries to be held summarily.

17. (*1*) Any authority other than a Board empowered under this Act to make an inquiry shall make the inquiry in the manner provided for holding a summary inquiry under the Bombay Land Revenue Code, 1879, and all the provisions contained in the said Code relating to the holding of a summary inquiry shall, so far as may be, apply.

Bom. V of 1879.

(*2*) Such authority as well as a Board shall have the same powers for summoning and enforcing the attendance of any person and examining him on oath and compelling the production of documents as are vested in the revenue officers under the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

Permission to owners to increase rent on account of improvements effected.

18. Notwithstanding anything contained in any other law for the time being in force, it shall be lawful for the owner of any land included in a scheme to enhance the rent payable by a tenant of the land by such amount and subject to such conditions as may be prescribed.

Registration of document, plan or map in connection with land improvement scheme not required.

19. (*1*) Nothing in the Indian Registration Act, 1908, shall be deemed to require the registration of any document, plan, or map prepared, made or sanctioned in connection with a scheme which has come into force.

XVI of 1908.

(*2*) All such documents, plans and maps shall, for the purpose of sections 48 and 49 of the Indian Registration Act, 1908, be deemed to be registered in accordance with the provisions of that Act :

XVI of 1908.

Provided that documents, plans and maps relating to the sanctioned scheme shall be accessible to the public in the manner prescribed.

20. [*Delegation of powers by Provincial Government.*] *Rep. by Bom. 7 of 1945, s. 16, read with Bom. 29 of 1948, s. 2.*

Delegation.

[4][**21.** The [5][State] Government and subject to the control of the [5][State] Government the Collector or [3][the Divisional Soil Conservation Officer may delegate to any officer any of the powers conferred on it or him or any of] the functions to be performed by it or him by or under this Act.]

Certain officers to be public servants.

22. The members and Secretary of a Board, the Inquiry Officer and any officer or person authorised or appointed by the Board, the Collector, [3][the Divisional Soil Conservation Officer] or the [5][State] Government under sub-section (*2*) of section 4, sub-section (*1*) of section 11, [6]* * * * section 16, [7][section 21] or sub-section (*2*) of section 25, as the case may be, shall be deemed to be public servants within the meaning of the Indian Penal Code.

XLV of 1860.

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[1] These words were inserted by Bom. 7 of 1945, s. 15 (*i*), read with Bom. 29 of 1948, s. 2.
[2] These words were substituted for the words "the Board or the Collector", *ibid.*, s. 15 (*ii*).
[3] These words were substituted for the words "the Land Improvement Officer" by Bom. 53 of 1949, s. 3, Second Schedule.
[4] This section was substituted for the original by Bom. 73 of 1948, s. 11.
[5] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[6] The words, brackets and figures "sub-section (*2*) of section 12" were deleted by Bom. 53 of 1949, s. 2, First Schedule.
[7] The word and figures "section 21" were inserted by Bom. 73 of 1948, s. 18.

Protection of persons acting in good faith and limitation of suits and prosecutions.

23. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any public servant or person duly authorised under this Act in respect of anything in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit or prosecution shall be instituted against any public servant or person duly authorised under this Act in respect of anything done or intended to be done, under this Act, unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Power to make rules.

24. (*1*) The [1][State] Government may, by notification published in the *Official Gazette*, make rules for the purpose of carrying into effect the provisions of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may be made to determine the following matters, namely :—

[2][(*i*) the matters to be prescribed under clause (*ix*) of sub-section (*1*) and clause (*v*) of sub-section (*2*) of section 4 ;

(*ii*) the matters to be prescribed under clause (*d*) of sub-section (*1*) of section 13 ;

(*iii*) the manner in which the rights and liabilities shown in the statement prepared under section 13 shall be entered in the record of rights maintained under Chapter X-A of the Bombay Land Revenue Code, 1879, and in the village accounts under sub-section (*2*) of section 13 ; Bom. V of 1879.

(*iv*) the manner of giving notice under section 16 ;

(*v*) the manner in which documents, plans and maps shall be made accessible to the public under section 19 ;

[3]* * * * * * *

[4]* * * * * * *

(*3*) The rules made under this section shall be subject to the condition of previous publication.

Power of State Government to direct preparation of scheme in certain circumstances.

[5][**25.** (*1*) Notwithstanding anything contained in this Act, the State Government may direct the preparation of a scheme providing for any of the matters specified in sub-section (*1*) of section 4 in any area in the following cases, namely :—

(*i*) where the State Government or any trust contributes not less than 25 per cent. of the cost of the scheme ;

(*ii*) if any person or authority is willing to contribute not less than 25 per cent. of the estimated cost of the scheme ;

[6]* * * * * * *

(*iv*) if in the opinion of the State Government land improvement is necessary in the interest of any persons who are members of the armed forces of the Union or who were such members and have retired or the dependants of such persons ; or

(*v*) if in the opinion of the State Government the scheme is necessary in the interest of the public.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] Clauses (*i*) to (*vi*) were substituted for the original clauses (*i*) to (*viii*) by Bom. 7 of 1945, s. 19, read with Bom. 29 of 1948, s. 2.

[3] Clause (*vi*) was deleted by Bom. 8 of 1953, s. 3.

[4] Clause (*viii*) inserted by Bom. 3 of 1944, s. 5 (*2*), was repealed by Bom. 7 of 1945, s. 19, read with Bom. 29 of 1948, s. 2.

[5] Section 25 was substituted for the original sections 25 and 25A by Bom. 8 of 1953, s. 4.

[6] Clause (*iii*) was deleted by Bom. 51 of 1954, s. 3.

(*2*) Along with such direction or any time thereafter, the State Government may authorize the Board to appoint an officer to prepare, in accordance with such instructions as the Board may issue, a draft scheme containing the particulars specified in sub-section (*2*) of section 4. The officer so appointed shall prepare a draft scheme accordingly and submit it to the Board for approval.

(*3*) After the scheme is submitted to the Board for approval under sub-section (*2*), the provisions of section 5 and the sections following the said section and the rules made under section 24 shall, so far as they can be made applicable, apply in respect of such scheme.

(*4*) Notwithstanding anything contained in sub-section (*3*), the owner of the land in which any work has been carried out for the purposes of a scheme under this section be liable, pending the preparation of the statement under section 13 to maintain the work to the satisfaction of the Divisional Soil Conservation Officer and repair it to his satisfaction within such time as he may fix.

The provisions of sub-section (*2*) of section 14 shall apply in respect of the owner's liability under this sub-section.]

Power of State Government to direct preparation and execution of scheme in area declared to be famine or scarcity area.

[1][**25A.** (*1*) Notwithstanding anything contained in this Act, if the State Government is of opinion that a state of famine or scarcity prevails or is likely to prevail in any area, it may make a declaration to that effect. Such declaration shall be published in the *Official Gazette*. On the publication of such declaration, the State Government may direct the Collector to appoint an officer as the Executing Officer for the purpose of immediately constructing embankments in such villages as may be specified. Such direction shall also require the Board to prepare a scheme providing for matters specified in clauses (*i*) and (*ii*) of sub-section of (*1*) section 4 or any other matters specified in sub-secton (*1*) of that section in such villages.

(*2*) On the issue of a direction under sub-section (*1*), the Board shall ask the Executing Officer to prepare a draft scheme, including therein all the works undertaken by him under sub-section (*1*), and other works in accordance with such instructions as the Board may issue, containing the particulars specified in sub-section (*2*) of section 4. Such Executing Officer shall prepare a draft scheme accordingly and submit it to the Board for its approval.

(*3*) The draft scheme submitted to the Board may be approved by it without modification, or with such modification as shall not affect the work carried out by the Executing Officer under sub-section (*1*). The scheme so approved by the Board shall be published in the *Official Gazette* and in the village in which the lands included in the scheme are situate. On the date on which the scheme is published in the village, it shall come into force and shall have effect as if it were enacted in this Act. The provisions of section 10A and the sections following the said section and the rules made under section 24 shall, so far as they can be made applicable, apply in respect of such scheme as if it were a scheme which has come into force under section 10.

(*4*) Notwithstanding anything contained in sub-section (*3*), the owner of the land in which any work has been carried out for the purposes of a scheme under this section shall be liable, pending the preparation of the statement under section 13, to maintain the work to the satisfaction of the Divisional Soil Conservation Officer and repair it to his satisfaction within such time as he may fix and the provisions of sub-section (*2*) of section 14 shall apply in respect of the owner's liability under this section.

[1] Sections 25A and 25B were inserted by Bom. 51 of 1954, s. 4.

Power to revoke scheme.

25B. If upon an application made by the Board, the State Government is satisfied that it is necessary so to do, the State Government may, at any time, by notification in the *Official Gazette*, revoke any scheme after it has come into force and upon such revocation the provisions of this Act, except section 15, shall cease to apply to such scheme. Such notification shall also be published in the village and at the headquarters of the taluka or mahal and of the district in which the lands included in such scheme are situate.]

Expenditure incurred by [1][State] Government to be charged on revenues of [2][State].

26. The expenditure incurred by the [1][State] Government in pursuance of anything done under this Act shall be charged on the revenues of the [2][State.]

Savings.

[3][**27.** All Boards constituted for a division under section 3 shall be dissolved on the day on which the new Boards shall be constituted under section 3 as amended by the Bombay Land Improvement Schemes (Amendment) Act, 1948 : Bom. LXX-III of 1948.

Provided that any direction issued, appointments made, scheme sanctioned, regulation made and all things done by the first mentioned Board shall be deemed to have been lawfully issued, made, sanctioned or done and any scheme so sanctioned shall be executed by the new Board constituted as aforesaid in the district in which the land in respect of which such scheme is made is situate :

Provided further that if such land is situate within the limits of more than one district the [1][State] Government shall decide which of the Boards shall execute the scheme in respect thereof.

Validation of constitution and acts of Board.

28. Notwithstanding anything contained in this Act, the Board constituted, any directions issued, appointments made, scheme approved, regulations made and all things done by or on behalf of the Board, before the date on which the Bombay Land Improvement Schemes (Amendment) Act, 1948, came into force shall be deemed to be and to have always been validly constituted, issued, made, approved or done and shall not be deemed to have been invalidly constituted, issued, made, approved or done by reason only of the fact that the Agricultural Commissioner or the Director of Agricultural Engineering acted as a member of the Board before the said date. Bom. LXX-III of 1948.

Saving of Khar lands.

29. Nothing in this Act shall apply to Khar lands in respect of which a scheme is or has been sanctioned under the Bombay Khar Lands Act, 1948.] Bom. LXX-III of 1948.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Province", *ibid.*
[3] Sections 27, 28 and 29 were added by Bom. 73 of 1948, s. 13.

THE BOMBAY COTTON CONTROL ACT, 1942.

CONTENTS.

PREAMBLE.

SECTIONS,

1. Short title and extent,
2. Definitions.
3. Power to fix in any area variety of cotton which may be cultivated etc,
3A. Permission to factories to mix standard cotton with any other standard cotton or any prohibited variety of cotton with standard cotton.
4. Penalty.
5. Confiscation.
6. Procedure in confiscation.
7. Compounding.
8. Power of entry and seizure.
9. Duty of owner, occupier and person in charge to give facilities for inspection by authorized officer.
10. Previous sanction and limitation on prosecution.
11. Cognizance of offences.
12. Protection for acts done under this Act.
13. Officer acting under the Act to be public servant.
14. Rules.
15. Repeal.

MO-1 Bk H 957—48a

*BOMBAY ACT No. XXX OF 1942.[1]

[THE BOMBAY COTTON CONTROL ACT, 1942.]

[*2nd March 1943.*]

Amended by Bom. 63 of 1947.

An Act to provide for regulation and prohibition of the cultivation of any variety of cotton, of the mixing of the prohibited variety of cotton with other cotton and of the possession or use of, or trade in, the prohibited variety of cotton in any part of the Province of Bombay.

WHEREAS it is expedient in the best interests of the growers of cotton in certain areas in the Province of Bombay, the cotton trade and the economic prosperity of the said Province to maintain the quality and reputation of the cotton grow in those areas, and for that purpose in such areas, to fix the variety of cotton to be grown, to prohibit the cultivation of any variety of cotton, to prohibit the mixing of the prohibited variety of cotton with any other cotton and to prohibit or restrict the possession or use of, or trade in, the prohibited variety of cotton;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5. Ch, 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title and extent.

1. (*1*) This Act may be called the Bombay Cotton Control Act, 1942.

(*2*) It extens to the whole of the Province of Bombay.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*a*) " controlled area " means an area specified in a notification under section 3;

(*b*) " cotton " includes cotton plant, ginned and unginned cotton, cotton waste and cotton seed;

(*c*) " Director of Agriculture " means the officer appointed for the time being to be the Director of Agriculture;

(*d*) " prohibited variety of cotton " for any area means the variety of cotton the cultivation of which is prohibited in such area under sub-clause (*ii*) of clause (*a*) of sub-section (*2*) of section 3;

(*e*) " standard cotton " for any area means the variety of cotton the cultivation of which is permitted in such area under sub-clause (*i*) of clause (*a*) of sub-section (*2*) of section 3.

Power to fix in any area variety of cotton which may be cultivated etc.

3. (*1*) (*a*) The Provincial Government may, by notification in the Official Gazette, in respect of any local area specified in the notification, declare its intention of—

(*i*) fixing the variety of cotton the cultivation of which shall be permitted in such area,

(*ii*) prohibiting the cultivation of any other variety of cotton in such area.

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[1] For the Statement, *see Bombay Government Gazette*, 1943, Part IV, pp. 72 and 73.

* This Act was re-enacted by Bom. 63 of 1947, s. 2.

[1][(*iii*) prohibiting in such area the mixing of any standard cotton with any other standard cotton or of the variety of cotton specified in sub-clause (*ii*) with any standard cotton, and

(*iv*) prohibiting or restricting in such area the possession or use of, or trade in, any standard cotton mixed with any other standard cotton or the variety of cotton specified in sub-clause (*ii*), whether or not mixed with any standard cotton.]

(*b*) Every such notification shall also be published in the regional language of the area and in such manner as the Collector thinks fit at the office of the Mamlatdar or Mahalkari in such area and in every town and village, persons residing in which are, in the opinion of the Collector, likely to be affected by such notification.

(*c*) Every such notification shall state that any objection or suggestion which may be received by the Provincial Government within the period specified in the notification, which shall be not less than three months from the date of the notification, shall be considered by the Provincial Government.

(*2*) (*a*) After the expiry of the period specified in the notification issued under sub-section (*1*) and after considering such objections and suggestions as may be received by it within such period, the Provincial Government may, by notification in the Official Gazette, in respect of the local area specified in the notification issued under sub-section (*1*) or any part thereof—

(*i*) fix the variety of cotton the cultivation of which is permitted in such area,

(*ii*) prohibit the cultivation of any other variety of cotton in such area,

[1][(*iii*) prohibit in such area the mixing of any standard cotton with any other standard cotton or of the variety of cotton specified in sub-clause (*ii*) with any standard cotton, and

(*iv*) prohibit or restrict in such area the possession or use of, or trade in, any standard cotton mixed with any other standard cotton or the variety of cotton specified in sub-clause (*ii*), whether or not mixed with any standard cotton.]

(*b*) Every such notification shall also be published in the regional language of the area and in such manner as the Collector thinks fit at the office of the Mamlatdar or Mahalkari in such area and in every town and village, persons residing in which are, in the opinion of the Collector, likely to be affected by such notification.

Permission to factories to mix standard cotton with any other standard cotton or any prohibited variety of cotton with standard cotton.

[2][**3A.** (*1*) Notwithstanding anything contained in section 3 or any notification issued thereunder, the Provincial Government may, by notification in the *Official Gazette*, permit any standard cotton to be mixed with any other standard cotton or any prohibited variety of cotton to be mixed with any standard cotton in any factory in which cotton is manufactured into yarn or cloth:

Provided that the mixed cotton—

(*a*) is not made into fully pressed bales, and

(*b*) is used in such factory exclusively in the manufacture of yarn or cloth.

(*2*) The owner or person in charge of the factory shall maintain or cause to be maintained a register containing a daily record of cotton other than standard cotton received into and used in the factory. He shall preserve such register for a period of not less than two years from the date of the last entry made therein.

(*3*) The owner or person in charge of the factory shall produce the register maintained under sub-section (*2*) when required to do so by the Director of Agriculture (Extension and Rural Development) or any person appointed by him in this behalf.]

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[1] These clauses were substituted for the original by Bom. 68 of 1947, s. 3.

[2] This section was inserted, *ibid.*, s. 4.

Penalty.

4. [1](*1*) Any person, who in any controlled area, knowingly and in contravention of the provisions of this Act or of any notification issued or rule made thereunder—

(*a*) cultivates any prohibited variety of cotton shall, on conviction, be punishable with fine which may extend to twenty rupees for the first offence and to fifty rupees for every subsequent offence,

[2][*b*(*i*) mixes or causes to be mixed any standard cotton with any other standard cotton or any prohibited variety of cotton with the standard cotton, or

(*ii*) possesses, uses or trades in, any standard cotton mixed with any other standard cotton or any prohibited variety of cotton, whether mixed with the standard cotton or not,]

shall, on conviction, be punishable with fine which may extend to five hundred rupees for every subsequent rupees for the first offence and to one thousand offence.

[3][(*2*) Any owner or person in charge of a factory who—

(*a*) in contravention of the provisions of sub-section (*1*) of section 3A makes the mixed cotton into fully pressed bales or uses the mixed cotton otherwise than in the manufacture of yarn or cloth in his factory, or

(*b*) fails to comply with any of the provisions of sub-section (*2*) or sub-section (*3*) of section 3A,

shall, on conviction, be punishable with fine which may extend to five hundred rupees for the first offence and to one thousand rupees for every subsequent offence.]

Confiscation.

5. Whenever an offence under this Act has been committed, all cotton in respect of which an offence has been committed and every box, receptacle, package or covering in which such cotton is contained shall be liable to confiscation.

Procedure in confiscation.

6. (*1*) When in any case tried by a criminal court, the court decides that anything is liable to confiscation under section 5, it may, after hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim, order confiscation.

(*2*) When an offence under this Act has been committed and the offender is not known or cannot be found or when anything liable to confiscation under this Act and not in the possession of any person cannot be satisfactorily accounted for, the officer authorised by the Provincial Government in this behalf may hold an inquiry and may order confiscation :

Provided that no such order shall be made before the expiration of one month from the date of seizing the thing liable to confiscation or without hearing the person, if any, claiming any right thereto and the evidence, if any, which he produces in support of his claim.

Compounding.

7. (*1*) The officer authorised under sub-section (*2*) of section 6 may accept from any person who is reasonably suspected of having committed an offence under section 4, a sum of money as may be prescribed by rules made under section 14 by way of composition for such offence.

(*2*) On payment of such sum, such person, if in custody, shall be set at liberty and if proceedings in any criminal court have been instituted against such person in respect of such offence, the composition shall be deemed to amount to an acquittal and no further proceedings shall be taken against such person in respect of such offence.

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[1] This section was renumbered as section 4 (*1*) by Bom. 63 of 1947, s. 5.

[2] These sub-clauses were substituted for the original, *ibid.*

[3] This sub-section was added, *ibid.*

(*3*) Notwithstanding anything contained in sub-section (*2*), it shall be lawful for the Court or the officer authorised under sub-section (*2*) of section 6 to order confiscation of anything liable to confiscation under section 5.

Power of entry and seizure.

8. (*1*) Any officer authorised in this behalf by the Provincial Government may between the hours of 6 a.m. and 6 p.m.—

(*a*) enter upon any land in a controlled area in which he knows or has reason to believe that any prohibited variety of cotton has been or is being cultivated in contravention of a notification under section 3, uproot or cause to be uprooted such cotton and seize the cotton so uprooted ; or

(*b*) enter upon or into any land, building, ship, vessel, vehicle or place in a controlled area in which he knows or has reason to believe that any prohibited variety of cotton, whether mixed with the standard cotton or not, is kept in contravention of a notification under section 3, and seize such cotton.

(*2*) Every officer seizing any cotton under this section shall forthwith—

(*a*) make a report of such seizure to the nearest Magistrate of the First or Second Class having jurisdiction to try the offence committed in respect of such cotton specifying in such report the particulars of such cotton and furnish a copy of such particulars to the occupier, or person in charge of the land, building, ship, vessel, vehicle or place on or in which such seizure was made, and

(*b*) subject to rules made under section 14, forward such cotton to the nearest officer authorised by the Provincial Government for examination and for report to the Director of Agriculture.

(*3*) The opinion of the officer authorised under sub-section (*2*) regarding such cotton recorded in any document signed by such officer shall be evidence as to the nature of such cotton in any inquiry, trial or proceeding under this Act.

Duty of owner, occupier and person in charge to give facilities for inspection by authorised officer.

9. (*1*) Every owner, occupier, or person, in charge, of any land, building, ship, vessel, vehicle or place shall give all reasonable facilities to the officer, authorised under sub-section (*1*) of section 8, to inspect such land, building, ship, vessel, vehicle or place.

(*2*) Any person who contravenes the provisions of sub-section (*1*) shall, on conviction, be punishable with fine which may extend to twenty rupees.

Previous sanction and limitation on prosecution.

10. No prosecution under this Act shall be instituted without the previous sanction of the Director of Agriculture.

Cognizance of offences.

11. No criminal court inferior to that of a Presidency Magistrate or a Magistrate of the Second Class shall try any offence under this Act.

Protection for acts done under this Act.

12. No suit, prosecution or other legal proceeding shall be instituted against any person for anything which is in good faith done or intended to be done under this Act.

Officer acting under the Act to be public servant.

13. Every officer acting or purporting to act in pursuance of the provisions of this Act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Rules.

14. (*1*) The Provincial Government may make rules not inconsistent with the provisions of this Act for the purpose of carrying into effect the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing provision, the Provincial Government may make rules for all or any of the following purposes, namely :—

(*a*) to prescribe the sum of money to be paid by way of composition under section 7 ;

(*b*) to prescribe the conditions subject to which cotton seized may be forwarded under section 8.

(*3*) Any such rule may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

(*4*) Rules made under this section shall be subject to the condition of previous publication in the *Official Gazette*.

Repeal.

Bom. XXXV of 1935.

15. The Bombay Cotton Control Act, 1935, is hereby repealed :

Provided that any notification issued under section 3 of the Bombay Cotton Control Act, 1935, shall be deemed to be issued under sub-section (*2*) of section 3 of this Act unless and until superseded by any notification issued under the said sub-section :

Provided further that any proceeding in respect of any offence under the Bombay Cotton Control Act, 1935, pending at the date of the coming into force of this Act shall be continued and disposed of as if this Act had not been passed.

THE INDIAN POST OFFICE (BOMBAY AMENDMENT) REGULATION, 1942.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and extent.
2. Amendment of section 7 of Act VI of 1898.
3. Repeal of the First Schedule to Act VI of 1898.

BOMBAY REGULATION No. I OF 1942.

[THE INDIAN POST OFFICE (BOMBAY AMENDMENT) REGULATION, 1942.]

[*2nd July 1942*]

Adapted and modified by the Adaptation of Laws Order, 1950.

A Regulation to amend the Indian Post Office Act, 1898,[1] in its application to the Partially Excluded Areas in the Province of Bombay.

WHEREAS it is expedient to amend the Indian Post Office Act, 1898, in its application to the Partially Excluded Areas in the Province of Bombay for the purpose hereinafter appearing;

VI of 1898.

NOW, THEREFORE, in exercise of the powers conferred by sub-section (2) of section 92 of the Government of India Act, 1935, the Governor of Bombay is pleased to make the following Regulation, namely:—

26 Geo. 5, Ch. 2.

1. (*1*) This Regulation may be called the Indian Post Office (Bombay Amendment) Regulation, 1942. **Short title and extent.**

(*2*) It extends to all the Partially Excluded Areas in the [2][State] of Bombay.

VI of 1898.

2. In section 7 of the Indian Post Office Act, 1898, hereinafter called the said Act,— **Amendment of section 7 of Act VI of 1898.**

(*a*) the proviso to sub-section (*1*) shall be deleted; and

(*b*) for sub-section (*2*) the following sub-section shall be substituted, namely:—

"(*2*) Unless and until such notification as aforesaid is issued, the rates chargeable for the time being in the rest of [3][India except Part B States] shall be the rates chargeable in the Partially Excluded Areas in the [2][State] of Bombay."

3. The First Schedule to the said Act shall be repealed. **Repeal of the First Schedule to Act VI of 1898.**

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[1] Central Acts, Vol. IV.

[2] This words was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] These words and letter were substituted for the words "British India", *ibid.*

THE BOMBAY INCREASE OF STAMP DUTIES ACT, 1943.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent, commencement and duration.
2. Increase of certain stamp duties.
3. Provisions of principal Act so far as not inconsistent to apply for purposes of this Act.

SCHEDULE.

*BOMBAY ACT No. XIV OF 1943.[1]

[THE BOMBAY INCREASE OF STAMP DUTIES ACT, 1943.]

[*29th December 1943.*]

*Amended by Bom. 19 of 1944.

An Act to provide for increase in certain stamp duties leviable under the Indian Stamp Act, 1899[2], in its application to the Province of Bombay.

II of 1899. WHEREAS it is expedient to provide for increase in certain stamp duties leviable under the Indian Stamp Act, 1899, in its application to the Province of Bombay;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5 Ch. 2.

NOW, THEREFORE, in exercise of the said powers the Governor of Bombay is pleased to make the following Act:—

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Bombay Increase of Stamp Duties Act, 1943.

(*2*) It extends to the whole of the Province of Bombay.

(*3*) It shall come into force on the 1st day of January 1944 and shall cease to have effect on such date as the Provincial Government may by notification in the *Official Gazette* appoint in this behalf.

Increase of certain stamp duties.

2. Notwithstanding anything contained in the Indian Stamp Act, 1899, in its application to the Province of Bombay (hereinafter called the principal Act) all stamp duties leviable under the principal Act except those leviable in respect of bills of exchange, cheques, promissory notes, bills of lading, letters of credit, policies of insurance, proxies and receipts shall be increased by a surcharge at the rates specified in the Schedule annexed hereto.

II of 1899.

Provisions of principal Act so far as not inconsistent to apply for purposes of this Act.

3. The provisions of the principal Act shall, save in so far as they are inconsistent with anything herein contained, apply for the purposes of this Act.

[3]SCHEDULE.

RATES OF SURCHARGE.

Amount of stamp duty.	Rate of surcharge.
(1) A fraction of a rupee not exceeding 1 anna	½ anna.
(2) A fraction of a rupee exceeding 1 anna but not exceeding 2 annas	1 anna.
(3) A fraction of a rupee exceeding 2 annas but not exceeding 4 annas	2 annas.
(4) A fraction of a rupee exceeding 4 annas but not exceeding 8 annas	4 annas.
(5) A fraction of a rupee exceeding 8 annas	6 annas.
(6) A whole rupee	8 annas.

*These Acts were re-enacted by Bom. 12 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1943, Part IV, p. 274.

[2] *See* Central Acts, Vol. IV.

[3] This Schedule was substituted by Bom. 19 of 1944, s. 2, (which came into force from 1st January 1945), read with Bom. 12 of 1948, s. 2.

The Bombay Increase of Court-fees Act, 1943 (Bom. XV of 1943), at pages 2193-2196 has been repealed by the Court-fees (Bombay Amendment) Act, 1954 (Bom. XII of 1954), s. 13.

THE INDIAN TARIFF (BOMBAY APPLICATION) REGULATION, 1943.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, application and commencement.

2. Application of Act XXXII of 1934 as amended from time to time, and validation of duty levied and collected.

BOMBAY REGULATION No. I OF 1943.

[THE INDIAN TARIFF (BOMBAY APPLICATION) REGULATION, 1943.]

[*2nd December 1943.*]

A Regulation to validate the levy of certain duties recovered in certain partially excluded areas and to apply the Indian Tariff Act, 1934[1], as amended from time to time to those areas.

XXXII of 1934. WHEREAS the Indian Tariff Act, 1934, is in force in the partially excluded areas in the Dahanu Taluka and the Umbergaon Petha in the Thana District in the Province of Bombay but the subsequent Central Acts amending it were not applied to the said areas under sub-section (*1*) of section 92 of the Government of India Act, 1935;

AND WHEREAS from the 31st March 1937 duties have been levied in those areas in accordance with that Act as from time to time amended by subsequent Central Acts;

AND WHEREAS it is expedient to validate the levy and collection of duties made as aforesaid, and to apply the Indian Tariff Act, 1934, as so amended to the said areas;

NOW, THEREFORE, in exercise of the powers conferred by sub-section (*2*) of section 26 Geo. 5, Ch. 2. 92 of the Government of India Act, 1935, the Governor of Bombay is pleased to make the following Regulation, namely:—

Short title, application and commencement.

1. (*1*) This Regulation may be called the Indian Tariff (Bombay Application) Regulation, 1943.

(*2*) It applies to the partially excluded areas in the Dahanu Taluka and the Umbergaon Petha in the Thana District (hereinafter referred to as "the said areas").

(*3*) It shall come into force at once.

Application of Act XXXII of 1934 as amended from time to time, and validation of duty levied and collected.

XXXII of 1934. **2.** The Indian Tariff Act, 1934, shall be deemed always to have had effect in the said areas subject, at any particular time to the same amendments as it was generally subject to in British India at that time, and all notifications issued under the said Act shall be deemed always to have been operative in the said areas as they have been generally operative in British India; and no duty levied and collected at any time within the said areas shall be deemed to have been invalidly levied and collected by reason only of the fact that at the time of such levy and collection any particular amendment of the said Act had not been applied to the said areas or any notification issued under the said Act was not operative therein.

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[1] Central Acts, Vol. IX.

THE BOMBAY GROWTH OF FOODCROPS ACT, 1944.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Powers to prescribe maintenance of existing proportion of growing food-crops.
4. Power to prescribe maximum proportion of non-food-crops and minimum proportion of foodcrops to be grown.
5. Power to prohibit growing of non-food-crops in successive years.
6. Power to rescind or amend orders.

6A. Power of Provincial Government to amend Schedules.

7. Power to exempt.
8. Effect of orders inconsistent with contracts to the contrary.
9. Fixation and guarantee of prices of foodcrops.
10. Reduction of revenue or irrigation dues and rent.

10A. Determination of rent.

11. Penalty.
12. Delegation of powers.
13. Powers to make rules.

SCHEDULE I.

SCHEDULE II.

*BOMBAY ACT No. VIII OF 1944.[1]

[THE BOMBAY GROWTH OF FOODCROPS ACT, 1944.]

[*20th May 1944.*]

†Amended by Bom. 16 of 1944.

An Act to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Province of Bombay.

WHEREAS it is expedient to provide for regulating the cultivation of crops with a view to growing more foodcrops in the Province of Bombay ;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature ;

26 Geo.5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay, is pleased to make the following Act :—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Growth of Foodcrops Act, 1944.

(*2*) It extends to the whole of the Province of Bombay, but shall come into force in any area thereof only on such date as the Provincial Government may by notification in the Official Gazette appoint in this behalf for that area [2][save as follows, namely, section 10A shall take effect only in such area, and from such date as the, Provincial Government may, by like notification, specify in this behalf.]

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*1*) " cultivator " means a person who is actually in possession of agricultural land whether as an occupant, tenant or otherwise, and includes a company and a joint family or a group of persons in joint actual possession ;

(*2*) " cultivator's holding " means the aggregate of all lands in the actual possession of a cultivator ;

(*3*) " scheduled foodcrop " means a crop specified in Schedule I ;

(*4*) " scheduled non-foodcrop " means a crop specified in Schedule II ;

(*5*) Words and expressions used in this Act but not defined shall have the same meaning as in the Bombay Land Revenue Code, 1879.

Bom. V of 1879.

Powers to prescribe maintenance of existing proportion of growing foodcrops.

3. The Provincial Government may by an order published in the Official Gazette and in such other manner as it may consider expedient direct that in any specified area every cultivator shall grow scheduled foodcrops in such area of his holding in the twelve months immediately following the date of the order as bears to the total area of his holding a proportion not less than that which the area of such crops grown by him in the twelve months previous to the date of the order bore to the total area of his then holding:

Provided that where a cultivator had no holding in the twelve months previous to the date of the order or where information regarding the area of the scheduled foodcrops grown in a cultivator's holding during the said twelve months is not available, the proportion for the purposes of this section shall be deemed to be such as may be fixed in the order.

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* This Act was re-enacted by Bom. 2 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1944, Part IV. p. 125.

[2] These words, figures and letter were added by Bom. 16 of 1944, s. 2, read with Bom. 2 of 1948, s. 2.

Explanation.—Where a scheduled foodcrop, is grown as a mixed crop with any crop other than a scheduled foodcrop, the area under such scheduled foodcrop shall, for the purposes of this section, be deemed to be not more than 1[¼, or such other proportion as may be fixed in this behalf by the Provincial Government either generally or in relation to any particular area or any particular mixed crop by notification published in the *Official Gazette* and in such other manner as it may consider expedient, whichever is greater,] of the total area under such mixed crop.

Power to prescribe maximum proportion of non-food-crops and minimum proportion of foodcrops to be grown.

4. If the Provincial Government is satisfied that it is necessary in the interests of the Province to increase the production of scheduled foodcrops in any local area, it may by an order published in the Official Gazette and in such other manner as it may consider expedient—

(*a*) prescribe the minimum proportion of the cultivator's holding in which scheduled foodcrops shall be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order ;

(*b*) prescribe the proportion in excess of which scheduled non foodcrops shall not be grown after the date of the order in any cultivator's holding in that area during the twelve months immediately following the date of the order.

Explanation.—Where a scheduled foodcrops is grown as a mixed crop with any crop other than a scheduled foodcrop, the area under such scheduled foodcrop shall, for the purposes of this section, be deemed to be not more than 1[¼, such other proportion as may be fixed in this behalf by the Provincial Government either generally or in relation to any particular area or any particular mixed crop by notification published in the *Official Gazette* and in such other manner as it may consider expedient, whichever is greater,] of the total area under such mixed crop

Power to prohibit growing of non-food-crops in successive years.

5. The Provincial Government may by an order published in the Official Gazette and in such other manner as it may consider expedient direct that in any area specified in the order scheduled non-foodcrops shall not be grown after the date of the order in that part of a cultivator's holding in which they were grown in the previous twelve months.

Power to rescind or amend orders.

6. The Provincial Government may add to, amend, vary or rescind any order issued under sections 3, 4 or 5 if in its opinion the circumstances of a season or any other reasons make this desirable.

Power of Provincial Government to amend Schedules.

2[**6A.** The Provincial Government may, by notification in the *Official Gazette*, direct additions to or omissions from the list of crops specified in Schedule I or Schedule II either generally or with reference to any particular area specified in any such notification, and the Schedule shall on the issue of the notification be deemed to be amended accordingly.]

Power to exempt.

7. The Provincial Government may wholly or partially exempt any cultivator's holding or class of such holdings from any or all the provisions of this Act or any order made thereunder.

Effect of orders inconsistent with contracts to the contrary.

8. An order issued under section 3, 4, 5 or 6 shall have effect notwithstanding any contract to the contrary between the cultivator and any other person interested in the agricultural land affected by such order.

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[1] These figures and words were substituted for the figures "¼" by Bom. 16 of 1944, s. 3, read with Bom. 2 of 1948, s. 2.

[2] This section was inserted by Bom. 16 of 1944, s. 4, read with Bom. 2 of 1948, s. 2.

Fixation and guarantee of prices of foodcrops.

9. The Provincial Government shall, by an order published in the Official Gazette and in such other manner as it may consider expedient, fix and guarantee prices for all cereal foodcrops grown in any cultivator's holding in each of the areas in respect of which an order under section 3 or 4 is issued.

Reduction of revenue or irrigation dues and rent.

10. (*1*) The Provincial Government may remit any part of land revenue or irrigation dues if in its opinion it is necessary to do so in respect of any area to which an order under section 4 applies.

(*2*) Whenever remission is granted in any area under sub-section (*1*), rents payable by a cultivator to his superior holder in such area shall be adjusted in accordance with section 84A of the Bombay Land Revenue, Code, 1879.

Bom. V. of 1879.

Determination of rent.

[1][**10A.** (*1*) In the areas where this section takes effect under the provisions of sub-section (*2*) of section 1, it shall be lawful for a tenant who is compelled to grow scheduled foodcrops on any land by the operation of an order under section 4 to apply in writing to the Mamlatdar within whose jurisdiction the land is situated for determination of the rent to be paid by him in respect of the land; and thereupon notwithstanding anything contained in any law for the time being in force (including the Bombay Small Holders Relief Act, 1938, the Bombay Tenancy Act, 1939, and the Bombay Land Improvements Schemes Act, 1942) or any usage or agreement or decree or order of a Court of law, the rent payable by the tenant in respect of the land on which scheduled foodcrops are compulsorily grown shall be the rent determined under this section. The application shall be made in such form as may be prescribed by rules and shall be filed before the end of the tenancy year terminating on the 31st March.

Bom. VIII of 1938. Bom. XXIX of 1939. Bom. XXVIII of 1942.

(*2*) On receipt of an application under sub-section (*1*) the Mamlatdar shall give notice to the landlord and after holding a formal inquiry in the manner provided in the Bombay Land Revenue Code, 1879, shall determine the rent of the land.

Bom. V. of 1879.

(*3*) Any party aggrieved by the decision of the Mamlatdar under sub-section (*2*) may, within one month from such decision, file an appeal before the Assistant or Deputy Collector in charge of the taluka in which the land is situated.

(*4*) The Assistant or Deputy Collector in appeal may for reasons to be recorded in writing annual, reverse, modify or confirm the decision of the Mamlatdar or he may direct further inquiry to be made on any point or take additional evidence as he may think necessary.

(*5*) The following factors shall be taken into conideration in determining the rent:—

(*i*) the rental values of similar lands used for purposes of growing scheduled foodcrops in the locality;

(*ii*) the prices of scheduled foodcrops in the locality;

(*iii*) improvements, if any, made in the land by the landlord during the tenancy year;

(*iv*) assessment payable in respect of the land; and

(*v*) such other factors as may be prescribed by rules.

(*6*) The Mamlatdar and the Assistant or Deputy Collector in proceedings under this section shall have the same powers as are vested in Courts in respect of the

[1] This section was inserted, *ibid.*, s. 5.

following matters under the Code of Civil Procedure, 1908, in trying a suit, namely :— V of 1908.

(*i*) proof of facts by affidavit ;

(*ii*) summoning and enforcing the attendance of any person and examining him on oath ; and

(*iii*) compelling the production of documents.

The Mamlatdar and the Assistant or Deputy Collector may have also such other powers as may be prescribed by rules.

(*7*) The Mamlatdar or the Assistant or Deputy Collector may award costs in any proceedings under this section and such costs, together with the cost of execution, shall be recoverable from the party ordered to pay them as an arrear of land revenue.

(*8*) Every order passed by the Mamlatdar under this Act, if not appealed against, and every order passed by the Assistant or Deputy Collector in appeal, shall hold good only in respect of the tenancy year concerned and shall not be called in question in any Court.

(*9*) Notwithstanding anything contained in the Court-fees Act, 1870, every application under this section to the Mamlatdar and every appeal to the Assistant or Deputy Collector shall bear a court-fee stamp of such value as may be prescribed by rules. VII of 1870.

(*10*) Any party to proceedings under this section may appear by any person authorised in writing to act on his behalf.

Explanation.—For the purpose of this section, the word "Mamlatdar" includes a Mahalkari and any other officer appointed by the Commissioner to perform the duties of a Mamlatdar in respect of any area under this section.]

Penalty.

11. (*1*) If any cultivator contravenes an order made under sections 3, 4, 5 or 6, he shall be punishable with fine which may extend to fifty rupees in relation to every acre or less of land in respect of which the order is contravened.

Explanation.—If the cultivator is a company or a joint family, the principal officer of such company or the *karta* of the joint family, as the case may be, shall be deemed to be the cultivator.

(*2*) Any Court trying such contravention may direct that any crop not being a scheduled foodcrop in respect of which the Court is satisfied that the order has been contravened shall be forfeited to His Majesty or, if the crop has been diposed of, such sum as may be equivalent to the fair value of the crop as may be determined by the Court shall be recovered as an arrear of land revenue.

Delegation of powers.

12. The powers conferred on the Provincial Government under this Act may, subject to such restrictions and conditions as it may impose, be delegated by it in whole or in part to the Commissioners or Collectors.

Power to make rules.

13. (*1*) The Provincial Government may be notification in the Official Gazette make rules for carrying out the provisions of this Act.

(*2*) The rules made under this section shall be made after previous publication.

SCHEDULE I.

Food Grains—

1. Rice.
2. Wheat.
3. Jowar : (*a*) Kharif, (*b*) Rabi.
4. Bajri.
5. Ragi.
6. Maize.
7. Kodra.
8. Barley.
9. Sama.
10. Rala.
11. Vari.

Pulses—

1. Gram.
2. Tur.
3. Pavata.
4. Mug.
5. Math.
6. Udid.
7. Wal.
8. Chavli.
9. Kulthi.
10. Peas.
11. Lentil.
12. Lang.

SCHEDULE II.

1. Cotton.
2. Tobacco.

MO-I Bk H 957—50

*BOMBAY ACT No. X OF 1944.[1]

[THE MUSSALMAN WAKF, BOMBAY PUBLIC TRUSTS REGISTRATION AND PARSI PUBLIC TRUSTS REGISTRATION (AMENDMENT) ACT, 1944.]

[*15th July 1944.*]

An Act to amend the Mussalman Wakf Act, 1923,[2] in its application to the Province of Bombay, the Bombay Public Trusts Registration Act, 1935, and the Parsi Public Trusts Registration Act, 1936.

XLII of 1923. Bom. XXV of 1935. Bom. XXIII of 1936.

WHEREAS it is expedient to amend the Mussalman Wakf Act, 1923, in its application to the Province of Bombay, the Bombay Public Trusts Registration Act, 1935, and the Parsi Public Trusts Registration Act, 1936, for the purposes hereinafter appearing;

26 Geo. 5, Ch. 2.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title.

1. This Act may be called the Mussalman Wakf, Bombay Public Trusts Registration and Parsi Public Trusts Registration (Amendment) Act, 1944.

Amendment of section 6Q of Act XLII 1923.

XLII of 1923.

2. In section 6Q of the Mussalman Wakf Act, 1923, in its application to the Province of Bombay, after the words "Official Gazette and", the words "if the Provincial Government so directs" shall be inserted.

3-4. [*The amendments made by sections 3 and 4 of this Act, have been incorporated in the Bombay Public Trusts Registration Act, 1935, and the Parsi Public Trusts Registration Act, 1936, respectively.*]

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*This Act was re-enacted by Bom. 25 of 1948, s. 3.

[1] For the Statement, *see Bombay Government Gazette*, 1944, Part IV, p. 154.

[2] *See* Central Acts, Vol. VII.

THE CITY OF BOMBAY MUNICIPAL (POST-WAR RECONSTRUCTION FUND) ACT, 1944.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Definitions.
3. Creation of post-war reconstruction fund.
4. [*Repealed.*]
5. [*Repealed.*]
6. [*Repealed.*]
7. [*Repealed.*]
8. Corporation to sanction transfer of amounts from one major head of account to another.
9. Expenditure out of post-war reconstruction fund.
10. Variation in exercise of powers under sections 126 and 129 of principal Act.
11. [*Repealed.*]
12. Duration of Act.

*BOMBAY ACT No. XIII OF 1944.[1]

[THE CITY OF BOMBAY MUNICIPAL (POST-WAR RECONSTRUCTION FUND) ACT, 1944.]

[*8th November 1944.*]

Amended by Bom. 39 of 1947.

An Act to supplement temporarily certain provisions of the City of Bombay Municipal Act, 1888, for the purpose of creating a post-war reconstruction fund.

WHEREAS it is expedient to supplement temporarily certain provisions of the City of Bombay Municipal Act, 1888, for the purpose of creating a post-war reconstruction fund; Bom. III of 1888.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation, dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature; 26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. This Act may be called the City of Bombay Municipal (Post-War Reconstruction Fund) Act, 1944. Short title.

2. In this Act,— Definitions.

(*a*) "the principal Act" means the City of Bombay Municipal Act, 1888; Bom. III of 1888.

(*b*) words and expressions used but not defined shall have the same meaning as in the principal Act.

3. If in the opinion of the Commissioner any expenditure for any purpose, for which the moneys from time to time credited to the municipal fund are liable to be applied under the principal Act, ought to be postponed until after the termination of the war, the Commissioner may under the provisions of this Act, cause moneys for such expenditure to be credited from time to time to a separate fund called the post-war reconstruction fund. Creation of post-war reconstruction fund.

4. [*Estimate of moneys for crediting to the post-war reconstruction fund.*] *Repealed by Bom. 39 of 1947, s. 2 (1).*

5. [*Section 125A of Bom. III of 1888 not to apply to estimate under section 4.*] *Repealed by Bom. 39 of 1947. s. 2 (1).*

6. [*Preparation of budget estimate by standing committee.*] *Repealed by Bom. 39 of 1947, s. 2 (1).*

7. [*Provisions of sections 127, 128 and 129 of principal Act to apply to budget estimate prepared under section 6.*] *Repealed by Bom. 39 of 1947, s. 2 (1).*

* This Act was re-enacted by Bom. 39 of 1949, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1944, Part IV, p. 229.

Corporation to sanction transfer of amounts from one major head of account to another

[1][8. The Corporation may, on the recommendation of the standing committee, sanction the transfer from one major head of account to another of any amount credited to the post-war reconstruction fund.]

Expenditure out of post-war reconstruction fund.

9. Expenditure out of the post-war reconstructon fund shall be provided for and made in accordanee with the provisions contained in the principal Act relating to expenditure out of the municipal fund for the next ensuing official year :

[2]Provided that expenditure out of the post-war reconstruction fund on any purpose other than the purposes for which expenditure had, pursuant to this Act, been postponed, shall not be provided for or made unless the Corporation, on the recommendation of the standing committee, has passed a resolution that such expenditure should forthwith be incurred out of the said fund :

Provided further that] for the purposes of clause (*b*) of sub-section (*1*) of section 125 of the principal Act, the Commissioner shall determine whether the whole or any part of the amount at credit of the post-war reconstruction fund shall be taken into account as a balance avilable for expenditure at the commencement of the next ensuing official year.

Variation in exercise of powers under sections 126 and 129 of principal Act.

10. The powers under sections 126 and 129 of the principal Act may be exercised by the standing committee and the corporation, as the case may be, for the purpose of increasing or decreasing the sum intended to be appropriated out of the post-war reconstruction fund for expenditure in the next ensuing official year. [3]* * *

11. [*Expenditure out of post-war reconstruction fund before termination of war.*] *Repealed by Bom. 39 of 1947, s. 2 (5).*

Duration of Act.

[4][12. (*1*) This Act shall remain in force up to and inclusive of the 31st day of March 1952.

(*2*) Any amount remaining unexpended in the post-war reconstruction fund on the aforesaid date shall be credited to the municipal fund.]

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[1] This section was substituted for the original by Bom. 39 of 1947, s. 2 (*2*).
[2] These words were substituted for the words "provided that", *ibid.*, s. 2 (*3*).
[3] The proviso was deleted, *ibid.*, s. 2 (*4*).
[4] This section was substituted for the original, *ibid.*, s. 2 (*6*).

THE AHMEDABAD MUNICIPAL OFFICERS' ACTS VALIDATING ACT, 1944.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Validation of acts of Ahmedabad Municipal Officers.

*BOMBAY ACT No. XVII OF 1944.[1]

[THE AHMEDABAD MUNICIPAL OFFICERS' ACTS VALIDATING ACT, 1944.]

[*13th December 1944.*]

An Act to validate the acts of certain Officers of the Ahmedabad Borough Municipality.

WHEREAS, on the supersession of the Ahmedabad Borough Municipality with effect from the 22nd August 1942 to the 31st March 1944 under Government Orders in the General Department Nos. 1825, dated the 21st August 1942, the 21st January 1943 and the 16th August 1943, the Government of Bombay directed that all the powers and duties which may by or under any law for the time being in force, be exercised or performed by or on behalf of the Ahmedabad Borough Municipality shall be exercised and performed by the person for the time being appointed by the said Government under clause (*b*) of sub-rule (*2*) of rule 38-B of the Defence of India Rules (hereinafter called the Administrator);

AND WHEREAS the Administrator did not delegate to the Chief Officer and other officers of the said Municipality any of the powers or duties (being powers and duties which may by or under any law for the time being in force be exercised or performed by or on behalf of the said Municipality) which were conferred and imposed on or delegated to the Chief Officer and other officers before the supersession of the said Municipality;

AND WHEREAS the Chief Officer and other officers of the said Municipality including the officers empowered by the Chief Officer in that behalf immediately before the said supersession did certain acts during the aforesaid period of supersession of the said Municipality purporting to exercise the said powers and perform the said duties;

AND WHEREAS it is expedient that the said acts of the said Chief Officer and all other officers as aforesaid should be validated;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all the powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5 Ch. 2.

NOW, THEREFORE, in exercise of the said powers the Governor of Bombay is pleased to make the following Act:—

Short title.

1. This Act may be called the Ahmedabad Municipal Officers' Acts Validating Act, 1944.

Validation of acts of Ahmedabad Municipal Officers.

2. All such powers and duties exercised and performed by the Chief Officer and other officers of the Ahmedabad Borough Municipality during the period of supersession of the said Municipality from the 22nd August 1942 to the 31st March 1944 (both days inclusive) as immediately before the said supersession were by or under any law for the time being in force exercised and performed on behalf of the said Municipality by the said Chief Officer and other officers shall be deemed to be and always be deemed to have been validly exercised and performed; and no acts done by the said Chief Officer and other officers shall after the commencement of this Act be deemed to be invalid or called in question on the ground only that the said powers and duties in the purported exercise of which the said acts were done were not at the time when the said acts were done lawfully vested in them or delegated to them under a rule duly framed by the Administrator; and the said Chief Officer and other officers are now hereby indemnified and discharged from liability in respect of such acts.

*This Act was repealed and re-enacted by Bom. 14 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1944, Part IV, p. 254.

THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857 AND THE BOMBAY (DISTRICT) TOBACCO ACT, 1933 (SUSPENSION) ACT, 1945.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Suspension of operation of Tobacco Duty (Town of Bombay) Act, 1857, and Bombay (District) Tobacco Act, 1933.
3. Refund of licence fees.
4. Effect of suspension of Acts.

*BOMBAY ACT No. XI OF 1945.[1]

[THE TOBACCO DUTY (TOWN OF BOMBAY) ACT, 1857 AND THE BOMBAY (DISTRICT) TOBACCO ACT, 1933 (SUSPENSION) ACT, 1945.]

[*28th April 1945.*]

An Act for the suspension of the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933.

WHEREAS pursuant to an agreement the Government of Bombay has accepted the offer of the Government of India to pay a certain sum in compensation *inter alia* for the complete withdrawal of, and abstention from, all forms of taxation on tobacco within the Province of Bombay in the first instance till the 31st day of March 1948;

AND WHEREAS for implementing the said agreement and possible future agreements of a like nature it is expedient to take power to suspend the provisions of the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933;

IV of 1857. Bom. II of 1933.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers the Governor of Bombay is pleased to make the following Act:—

IV of 1857. Bom. II of 1933.

Short title.

1. This Act may be called the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933 (Suspension) Act, 1945.

IV of 1857. Bom. II of 1933.

Suspension of operation of Tobacco Duty (Town of Bombay) Act, 1857, and Bombay (District) Tobacco Act, 1933.

2. (*1*) The Provincial Government may, by notification in the Official Gazette, suspend either indefinitely or for such period as may be specified in the notification, the operation of the Tobacco Duty (Town of Bombay) Act, 1857, and the Bombay (District) Tobacco Act, 1933 (hereinafter called the said Acts).

(*2*) Where the operation of the said Acts has under sub-section (*1*) been suspended indefinitely, such suspension may at any time be removed by the Provincial Government by notification in the Official Gazette.

Refund of license fees.

3. Where the said Acts have been suspended under sub-section (*1*) of section 2, a licensee shall, in respect of any fee paid for a license granted to him under the provisions of the said Acts, be entitled to a refund of the proportionate amount of the license fee in respect of the period of the license which shall remainunexpired on the date on which a notification under sub-section (*1*) of section 2 comes into operation.

Effect of suspension of Acts.

4. The suspension of the said Acts shall not—

(*a*) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any provision of the said Acts; or

(*b*) affect any investigation, legal proceeding or remedy in respect of any such penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted continued or enforced and any such penalty, forfeiture or punishment may be imposed as if the said Acts had not been suspended.

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* The Act was repealed and re-enacted by Bom. 1 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1945, Part IV, page 3.

*BOMBAY ACT No. XV OF 1945.[1]

[THE MUSSALMAN WAKF (BOMBAY AMENDMENT) ACT, 1945.]

[*20th June 1945.*]

An Act to amend the Mussalman Wakf Act, 1923, in its application to the Province of Bombay.

XLII of 1923. WHEREAS it is expedient to amend the Mussalman Wakf Act, 1923, in its application to the Province of Bombay for the purposes hereinafter appearing;

26 Geo. 5, Ch. 2. AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

Short title. 1. This Act may be called the Mussalman Wakf (Bombay Amendment) Act, 1945.

Amendment of section 6C of Act XLII of 1923. XLII of 1923. 2. In sub-section (*1*) of section 6C of the Mussalman Wakf Act, 1923, in its application to the Province of Bombay, for clause (i) the following shall be substituted, namely :—

" (i) whether a wakf exists ;

(ia) whether such wakf is a wakf to which this Act applies ; ".

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* This Act was repealed and re-enacted by Bom. 25 of 1948, ss. 2 & 4.

[1]For the Statement, *see Bombay Government Gazette*, 1945, Pt. V, page 30.

MO-1 Bk H 957—51

THE GREATER BOMBAY LAWS AND THE BOMBAY HIGH COURT (DECLARATION OF LIMITS) ACT, 1945.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Extension of enactments to Greater Bombay.
4. Certain enactments not to be in force in the added areas.
4A Alteration of limits of certain villages.
5. Declarations of limits of jurisdiction of the High Court.
6. Pending proceedings.
7. Amendment of entries in Schedules A and C.
8. Definitions in Central Acts relating to certain matters.
9. Amendments of certain enactments.

SCHEDULES A to F.

†BOMBAY ACT No. XVII OF 1945.[1]

[THE GREATER BOMBAY LAWS AND THE BOMBAY HIGH COURT (DECLARATION OF LIMITS) ACT, 1945.]

[*15th August 1945.*]

Amended by Bom. 52 of 1947.
" " " 8 of 1950.*
Adapted and modified by the Adaptation of Laws Order, 1950.

WHEREAS it is expedient to extend the limits of the City of Bombay by including therein some portion of the Bombay Suburban District; AND WHEREAS it is necessary to constitute the whole of the said-area into an area hereinafter called the Greater Bombay;

AND WHEREAS clause 11 of the Letters Patent of the High Court of Judicature at Bombay dated the 28th December 1865 provides that the said High Court shall have and exercise ordinary original civil jurisdiction within such local limits as may from time to time be declared and prescribed by any law made by the Governor of Bombay in Council; AND WHEREAS under the provisions of the Government of India Act, 1935, the Provincial Legislature of Bombay is competent to declare and prescribe the local limits of such jurisdiction;

26 Geo. 5, Ch. 2.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, the powers vested by or under the said Act in the Provincial Legislature;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

1. (*1*) This Act may be called the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945. Short title and commencement.

(*2*) It shall come into force with effect from such date as the [2][State] Government may, by notification in the *Official Gazette*, appoint.

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† This Act was repealed and re-enacted except section 9 and Schedule E by Bom. 52 of 1947, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1945, Pt. V, page 147.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

* Section 7 of Bom. 8 of 1950 reads as under:—

7. Notwithstanding anything contained in the foregoing provisions of this Act and the inclusion of the areas specified in Part III of Schedule A to the said Act in Greater Bombay but save as expressly provided by the provisions of the Bombay Municipal (Extension of Limits) Act, 1950— Pending proceedings.

(*1*) all proceedings pending immediately before the date on which this Act comes into force, in any civil or criminal court, or before any tribunal, public authority, or officer, shall be continued in that court, or before that tribunal, authority or officer as if this Act had not been passed and that court, tribunal, officer or authority shall have for the purposes of the said proceedings, all jurisdiction and powers which it or he had immediately before the day on which this Act comes into force;

(*2*) an appeal or application for revision in respect of any proceedings so pending in any court, or before any tribunal, authority or officer shall be to the court, tribunal, officer or authority which would have appellate or revisional jurisdiction, as the case may be, and that court, tribunal, authority or officer, shall entertain and dispose of the appeal or application as if the proceedings were instituted in that court or before that tribunal, authority or officer before the day on which this Act comes into force;

(*3*) all applications for the execution or enforcement of a decree or order of any court, tribunal, authority or officer passed immediately before the day on which this Act comes into force and all other applications arising out of such decree or order shall be made to and disposed of by such court, tribunal, authority or officer, as if this Act had not been passed:

Provided that if in consequence of this Act, any such court, tribunal, authority or officer has been superseded or has ceased to exist, such proceeding or any appeal or revisional application or any other applications in such proceeding shall lie to or be disposed of by such authority as the State Government directs.

Definitions.

2. In this Act,—

(*1*) " City of Bombay " means the area within the local limits of the ordinary original civil jurisdiction of the High Court immediately before the commencement of this Act ;

(*2*) " Greater Bombay " means the areas for the time being specified in Schedule A ;

(*3*) " High Court " means the High Court of Judicature at Bombay ;

(*4*) " Letters Patent " means the Letters Patent of the High Court dated the 28th December 1865 ;

(*5*) " Schedule " means a Schedule appended to this Act.

Extension of enactments to Greater Bombay.

3. (*1*) Such provisions, or such parts of the provisions,—

(*a*) of any enactment relating to any of the matters enumerated in Lists II and III in the Seventh Schedule to the Government of India Act, 1935, made by any authority in British India, or 26 Geo. 5, Ch. 2.

(*b*) of any notification, order, scheme, rule, form or by-law issued, made or prescribed under any enactment of the class referred to in clause (*a*),

as were in force immediately before the commencement of this Act in the area comprised in the City of Bombay (in whatever manner described, whether a City of Bombay, Town of Bombay, Town and Island of Bombay, Islands of Bombay and Kolaba, Presidency-town, Presidency-town of Bombay, Collectorate of Bombay or otherwise) but not in the other areas comprised in Greater Bombay are hereby declared to be in force in all the areas comprised in Greater Bombay, and all references to the said City, in whatever manner described, in the said provisions of the enactments, notifications, orders, schemes, rules, forms and by-laws shall be deemed to be references to Greater Bombay.

(*2*) Nothing in sub-section (*1*) shall—

(*a*) apply to any provisions made by or under the enactments specified in Schedule B and Schedule C ;

(*b*) affect the right of any competent authority to repeal, amend or cancel any enactment, notification, order, scheme, rule, form or by-law referred to in sub-section (*1*).

Certain enactments not to be in force in the added areas.

4. (*1*) The enactments mentioned in Schedule D and all notifications, orders, schemes, rules, forms and by-laws made, issued or prescribed thereunder shall cease to apply to, or to be in force in, the areas specified in [1][Parts II and III] of Schedule A.

[1] These words and figures were substituted for the word and figure " Part II " by Bom. 8 of 1950, s. 2.

(*2*) Nothing in sub-section (*1*) shall affect—

(*a*) the right of any competent authority to direct that any enactment, notification, order, scheme, rule, form or by-law referred to in the said sub-section shall apply to or be in force in the areas referred to in the said sub-section or to make, issue or prescribe any notification, order, scheme, rule, form or by-law under any such enactment; or

(*b*) the operation of any such enactment, notification, order, scheme, rule, form or by-law before the commencement of this Act; or

(*c*) any right, privilege, obligation or liability acquired, accrued or incurred under any such enactment, notification, order, scheme, rule, form or by-law before the commencement of this Act.

Bom. V of 1879.

Alteration of limits of certain villages.

[1]**4A.** Notwithstanding anything contained in the Bombay Land Revenue Code, 1879, and in any order or notification made or issued thereunder—

(*a*) the lands specified in Part I of Schedule E shall, on and from the date of the coming into force of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Amendment) Act, 1950, be excluded from the limits of the village of Majas in the Bombay Suburban District and shall be included in and form part of the village of Goregaon;

Bom. VIII of 1950.

(*b*) the lands specified in Part II of the said Schedule shall, on and from the said date, be excluded from the limits of the village of Marol in the Bombay Suburban District and shall be included in and shall form part of the village of Parajpur;

(*c*) the lands specified in Part III of the said Schedule shall, on and from the said date, be excluded from the limits of the village of Marol in the Bombay Suburban District and shall be constituted a new village to be called the village of Maroshi.

Declaration of limits of jurisdiction of the High Court.

5. (*1*) The High Court shall have and exercise ordinary original civil jurisdiction within the areas for the time being comprised in Greater Bombay.

(*2*) Save as otherwise provided in this Act, nothing in sub-section (*1*) shall affect—

41–42 Vict. Ch. 73.

(*a*) the jurisdiction of the High Court as a Court of Admiralty or Vice Admiralty under clauses 32 and 33 of the Letters Patent or under the Territorial Waters Jurisdiction Act, 1878, or otherwise exercisable by it in connection with prize matters or other maritime questions arising in India;

(*b*) any right or liability of any Government or any local authority or person, except in regard to the exercise of jurisdiction and any legal consequences thereof.

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[1] Section 4A was inserted by Bom. 8 of 1950, s. 3.

Pending proceedings.

6. Notwithstanding anything contained in this Act all proceedings pending in any court in [1][the area specified in Parts I and II of Schedule A] and all other proceedings of whatever nature pending before any public officer, [2]* * * * * at the date of the commencement of this Act (including proceedings where an appeal or an application for revision lies or will lie from a decision made or to be made), [3][if such other proceedings are pending in any of the areas [1][specified in Parts I and II of Schedule A] or are pending in respect of any such areas] shall be disposed of by such authority as the [State] Government may direct and in the absence of such direction any such proceeding shall be continued and disposed of as if this Act had not been passed.

Amendment of entries in Schedules A and C.

7. (*1*) The [4][State] Government may, from time to time, with the concurrence of the High Court by notification in the *Official Gazette*, add to, alter or amend the entries in Schedule A, so far as may be necessary in consequence of reclamation, encroachment by sea, submergence of water-course or other alterations of sea limits or correct mistakes in the said Schedule and the said Schedule shall, on the issue of such notification, be deemed to be amended accordingly.

(*2*) The [4][State] Government may, from time to time, by notification in the *Official Gazette*, add to, alter or amend the entries in Schedule C and the said Schedule shall on the issue of such notification be deemed to be amended accordingly.

Definitions in Central Acts relating to certain matters.

8. In all Central Acts and Regulations relating to any of the matters enumerated in Lists II and III in the Seventh Schedule to the Government of India Act, 1935, passed before the commencement of this Act, unless there is anything repugnant in the subject or context,— 26 Geo. 5, Ch. 2.

(*1*) "City of Bombay" shall mean the area within the local limits of the ordinary original civil jurisdiction of the High Court immediately before the commencement of this Act;

(*2*) "Presidency town of Bombay", "town of Bombay", "town and island of Bombay" and "Presidency town" when used with reference to the Province of Bombay, or "Greater Bombay" shall mean the areas for the time being specified in Schedule A.

Amendments of certain enactments.

[5][**9.** The enactments specified in the second column of Schedule F shall be amended in the manner and to the extent specified in the third column thereof.]

SCHEDULE A.

Areas comprised in Greater Bombay.

[*See* section 2 (*2*).]

Part I.

1. The Town and Island of Bombay.

2. The limits of the Port of Bombay as defined in the Government Notification in the Political Department, No. 6204, dated the 6th June 1930, issued under section 5 of the Indian Ports Act, 1908. XV of 1908.

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[1] These words were substituted for the original by Bom. 8 of 1950, s. 4.

[2] The words "in or in respect of any of the areas comprised in Greater Bombay" were deleted by Bom. 52 of 1947, s. 2 and Schedule.

[3] These words were inserted, *ibid.*

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] This section was inserted by Bom. 8 of 1950, s. 5.

Part II.

I. The limits of the municipal boroughs of Bandra, Parle-Andheri and Kurla and of the municipal districts of Ghatkopar-Kirol and Juhu.

2. The undermentioned 28 villages of the Bombay Suburban District :—

1. Bandivali.
2. Chembur.
3. Vadawli.
4. Ambivali.
5. Chakala.
6. Trombay.
7. Bapnala.
8. Brahmanwada.
9. Mandala.
10. Mankhurd.
11. Man Budruk.
12. Mulgaon.
13. Vesava.
14. Madh.
15. Devnar.
16. Borle.
17. Mahul.
18. Anik.
19. Kole-Kalyan.
20. Marol.
21. Mohili.
22. Maravali.
23. Mogre.
24. Shahar.
25. Nanala.
26. Saki.
27. Asalpe (Asap).
28. Kondivate.

[1]**Part III.**

The undermentioned villages of the Bombay Suburban District :—

1. Bhandup.
2. Chendavli.
3. Hariali.
4. Kanjur.
5. Kopri (near Pawai).
6. Majas (as constituted by section 4A of this Act).
7. Oshivra.
8. Parajapur (as constituted by section 4A of this Act).
9. Paspoli.
10. Pawai.
11. Tirandaj
12. Tungve.
13. Vikhroli.
14. Vyaroli.;]

[2][*Note.*—The limits of the above areas comprising Greater Bombay are shown by a purple line on three plans signed by the Secretary to Government, Home Department, one of which is deposited with the Prothonotary of the High Court, one with the Municipal Commissioner for Greater Bombay and the third with the Secretary to Government, Home Department.]

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[3][SCHEDULE B.

Enactments which are not affected by this Act.

[*See* section 3 (*2*).]

Year.	No.	Short title.
1	2	3
	Bombay Acts.	
1876	II	The Bombay City Land Revenue Act, 1876.
1898	I	The City of Bombay Municipal Investment Act, 1898.
1915	IV	The Bombay City Survey Act, 1915.]

[1] Part III was inserted by Bom. 8 of 1950, s. 6 (*i*).
[2] This Note was substituted for the original, *ibid*, s. 6 (*ii*).
[3] This Schedule was substituted for the original, *ibid*, s. 8.

SCHEDULE C.

Enactments which are not affected by this Act.

[*See* section 3 (*2*).]

Year.	No.	Short title.
1	2	3
	Central Acts.	
1899	II	The Indian Stamp Act, 1899.
1[*]	*	* * * * *
	Bombay Acts	
2[*]	*	* * * * *
1925	VI	The Bombay Betting Tax Act, 1925.
1925	VIII	The Bombay Securities Contracts Control Act, 1925.
1929	VII	The Bombay Maternity Benefit Act, 1929.
1932	II	The Bombay Finance Act, 1932.
1932	XV	The Bombay Weights and Measures Act, 1932.
2[*]	*	* * * * *
2[*]	*	* * * * *
	All Central Ordinances.	

SCHEDULE D.

Enactments which shall cease to apply to or to be in force in the areas specified in Part II of Schedule A.

[*See* section 4 (*1*).]

Year	No.	Short title.
1	2	3
	Central Acts.	
1869	XIV	The Bombay Civil Courts Act, 1869.
1871	I	The Cattle-trespass Act, 1871.
1887	IX	The Provincial Small Cause Courts Act, 1887.
1920	V	The Provincial Insolvency Act, 1920.

[1] The figures and words "1939; XXV. The Defence of India Act, 1939" were deleted by Bom. 52 of 1947, s. 2 and Schedule.

[2] These entries were deleted by Bom. 8 of 1950, s. 9.

Year.	No.	Short title.
1	2	3
		Bombay Acts.
1867	VII	The Bombay District Police Act, 1867.
[1][1889	I	The Bombay Village Sanitation Act, 1889.]
1890	IV	The Bombay District Police Act, 1890.
[1][1892	I	The Bombay District Vaccination Act, 1892.]
1905	I	The Bombay Court of Wards Act, 1905.
1906	II	The Mamlatdars' Courts Act, 1906.
[1][1930	XXV	The Bombay Local Fund Audit Act, 1930.]

Bom. XVII of 1945.

[3]SCHEDULE E.

(*See* section 4A.)

Lands.

PART I.

Survey Number.	Hissa No.	Area. A.	G.	As.
13	2 part	0	36	0
15	..	1	25	4
16	1	4	8	0
16	2 part	34	32	0
17	..	5	0	0
18	..	13	18	4
19	1	70	36	0
19	2	0	11	0

[1] These entries were inserted by Bom. 8 of 1950, s. 10.
[2] The amendments made in the various enactments, have been continued in force by Bom. 5 for 1947, s. 2.
[3] Schedules E and F were inserted by Bom. 8 of 1950, s. 11.

Survey No.	Hissa No.	Area. A.	Gs.	As.
20	..	1	0	12
21	..	1	11	12
22	..	1	9	4
23	..	60	20	0
24	..	5	15	0
25	..	0	9	4
26	..	5	29	0
27	..	58	8	0
28	1	6	38	0
28	2	42	24	0
29	..	1	14	0
30	..	3	1	4
31 part	..	3	21	0
32 part	..	0	5	0
34	1 part	3	38	0
35	..	2	34	0
36	..	0	6	0
40	3 part	0	34	0
40	4 part	27	25	0

PART II.

Survey No.	Hissa No.	Area. A.	Gs.	As.
169 part	..	15	30	0
170 part	..	3	34	0
171 part	..	6	28	0
172 part	..	9	15	0
173	..	6	36	0
174	..	2	5	0
175	..	8	23	0
176	..	6	23	0
177	..	16	4	0
178 part	..	1	39	0
190 part	..	30	30	0
191	..	2	7	8
	Total	110	34	8
	Road	2	10	0
	Pipe Line	3	0	0
	Grand Total	116	4	8

PART III.

Survey No.	Hissa No.	Area. A.	Gs.	As.
169 part	..	521	0	0
170 part	..	5	10	0
171 part	..	3	0	0
172 part	..	0	8	0
178 part	..	7	6	0
179	..	6	10	0
180	..	4	13	0
181	..	1	20	0
182	..	4	26	0
183	..	8	28	0
184	..	6	10	0
185	..	20	16	0
186	..	8	23	0
187	..	8	6	0
188	..	3	15	0
189	..	2	35	0
190 part	..	175	21	0
	Total	787	7	4
	Tank	1	10	0
	Pipe Line	3	7	0
	Road	5	0	0
	Grand Total	796	34	4

SCHEDULE F.

(*See* section 9.)

Enactments amended.

Number and year.	Short title.	Amendments.
Bom. VIII of 1867 ..	The Bombay Village Police Act, 1867.	In section 23, for the words and figures "Part II" the words and figures "Parts II and III" shall be substituted.
Bom. I of 1877 ..	The Bombay Vaccination Act, 1877.	1 In the long title, the preamble, sections 1, 20 and 21 and in the marginal note to section 20 for the words "the City of Bombay" the words "Greater Bombay" shall be substituted. 2. In section 3 for the words "divide the City of Bombay" the words "divide Greater Bombay" shall be substituted. 3. In section 7, for the words "the City of Bombay" at both places where they occur and for the words "the City", the words "Greater Bombay" shall be substituted. 4. In section 15, for the words "Child was born out of the City of Bombay or his birth has not been registered in the said City", the words "birth of the child has not been registered in Greater Bombay" shall be substituted. 5. In Schedule D, for the words "in the City" the words "in Greater Bombay" shall be substituted.

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Number and year.	Short title.	Amendments.
Bom. I of 1889 ..	The Bombay Village Sanitation Act, 1889.	In section 2, for the words "the City of Bombay" the words "Greater Bombay" shall be substituted.
Bom. V of 1890 ..	The Bombay Municipal Servants Act, 1890.	1. In the preamble, in sub-section (*2*) of section 1 and in clause (*a*) of sub-section (*1*) of section 3, for the words "the City of Bombay" the words "Greater Bombay" shall be substituted. 2. In section 2, in sub-section (*2*), for the words "affects the City of Bombay", the words "affects Greater Bombay" shall be substituted. 3. In section 6, for the words "be entitled to receive in the City of Bombay", the words "be entitled to receive in Greater Bombay" shall be substituted.
Bom. I of 1892 ..	The Bombay District Vaccination Act, 1892.	In clause (*a*) of sub-section (*2*) of section 2 and in section 17 for the words "the City of Bombay" the words "Greater Bombay" shall be substituted.
Bom. III of 1901 ..	The Bombay District Municipal Act, 1901.	1. In the preamble, sub-section (*2*) of section 1 and in sub-section (*2A*) of section 83, for the words "the City of Bombay", the words "Greater Bombay" shall be substituted. 2. In section 22, the proviso to sub-section (*1*) shall be deleted. 3. In section 56, in clause (*h*), the words and figures "or, as the case may be, section 29 of the City of Bombay Police Act, 1902" shall be deleted. 4. In section 86, the words, brackets and figures "in respect of the areas specified in Part II of Schedule A to Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, of the Chief Presidency Magistrate or in respect of other areas" shall be deleted.
Bom. IV of 1902 ..	The City of Bombay Police Act, 1902.	1. In section 9A— (*a*) for sub-section (*2*) the following shall be substituted, namely :— "(*2*) The State Government may require the Municipal Commissioner, the Collector or any other authority to recover, either in whole or in part, the cost of such additional police and, where the Municipal Commissioner is required to recover such cost, an additional sum not exceeding three per cent. of the amount of such costs, generally from all persons who are inhabitants of the area to which such notification applies or specially from any particular section or sections, or class or classes of such persons and in such proportions as the State Government may direct." (*b*) sub-section (*4*) shall be deleted ;

Number and year.	Short title.	Amendments.
		(*c*) in sub-section (*7*)— (*i*) for the words, brackets and figures " or by the municipality under sub-section (*3*) or (*4*) " the words, brackets and figures " under sub-section (*3*) or by a municipality outside the City of Bombay under the provisions of this section as in force before the coming into force of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Amendment) Act, 1950 ", shall be substituted; (*ii*) the words and figures " or section 51 of the Bombay District Municipal Act, 1901, or section 65 of the Bombay Municipal Boroughs Act, 1925 as the case may be " shall be deleted.
Bom. VIII of 1950.		
Bom. III of 1901.		
Bom. XVIII of 1925.		
		2. In section 45— (*a*) for sub-section (*2*) the following shall be substituted, namely :— " (*2*) The Chief Presidency Magistrate may require the Municipal Commissioner, the Collector or any other authority to recover, either in whole or in part, such amount and, where the Municipal Commissioner is required to recover such amount, an additional sum not exceeding three per cent. of such amount generally from all persons who are inhabitants of any particular area or specially from any particular section or sections, or class or classes of such persons, and in such proportions as the Chief Presidency Magistrate may direct." (*b*) sub-section (*4*) shall be deleted; (*c*) in sub-section (*6*)— (*i*) for the words, brackets and figures " or by the municipality under sub-section (*3*) or (*4*) ", the words, brackets and figures " under sub-section (*3*) or by a municipality outside the City of Bombay under the provisions of this section as in force before the coming into operation of the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) (Amendment) Act, 1950 " shall be substituted; (*ii*) the words and figures " or section 51 of the Bombay District Municipal Act, 1901, or section 65 of the Bombay Municipal Boroughs Act, 1925, as the case may be ", shall be deleted.
		3. In section 46, in sub-section (*1*), the words, brackets and figures " under sub-sections (*2*) to (*4*) of " shall be deleted.
		4. In section 111-A for the words " the City of Bombay or of any other local authority in the Greater Bombay " the words " Greater Bombay " shall be substituted.

Number and year.	Short title.	Amendments.
Bom. I of 1915 ..	The Bombay Town Planning Act. 1915.	In sub-section (*1*) of section 4, sub-section (*2*) of section 10, sub-section (*1*) of section 26, sub-section (*3*) of section 43 and sub-section (*3*) of section 45 for the words " the City of Bombay " the words " Greater Bombay " shall be substituted.
Bom. XV of 1920 ..	The City of Bombay Primary Education Act, 1920.	In the long title, the preamble, sub-section (*2*) of section 1, and in sub-section (*1*) of section 3, for the words " the City of Bombay " the words " Greater Bombay " shall be substituted.
Bom. VI of 1923 ..	The Bombay Local Boards Act, 1923.	1. In sub-section (*2*) of section 1 and in section 107 for the words " the City of Bombay " the words " Greater Bombay " shall be substituted. 2. In section 19, the proviso to sub-section (*1*) shall be deleted.
Bom. V of 1925 ..	The Bombay Prevention of Adulteration Act, 1925.	1. In the long title, the preamble, sub-section (*3*) of section 1, and clause (*b*) of section 2, for the words " the City of Bombay ", the words " Greater Bombay " shall be substituted. 2. In section 6, in sub-section (*2*), for the words " the City of Bombay " at both the places the words " Greater Bombay " shall be substituted.
Bom. XVIII of 1925..	The Bombay Municipal Boroughs Act, 1925.	1. In section 15, the proviso to sub-section (*1*) shall be deleted. 2. In section 71, in clause (i) the words " or as the case may be, section 29 of the City of Bombay Police Act, 1902 " shall be deleted. Bom. IV of 1902. 3. In section 105, in sub-section (*2*) for the words " the City of Bombay " the words " Greater Bombay " shall be substituted. 4. In section 110, in sub-section (*1*) for the words " Chief Presidency Magistrate in respect of the areas specified in Part II of Schedule A to the Greater Bombay Laws and the Bombay High Court (Declaration of Limits) Act, 1945, or of the District Magistrates in respect of other areas ", the words " District Magistrate " shall be substituted. 5. In Schedule I the heading " Bombay Suburban " and the entries " Bandra and Kurla " shall be deleted.
Bom. XXV of 1930 ..	The Bombay Local Fund Audit Act, 1930.	In the long title, the preamble and in section 2, for the words " the City of Bombay " the words " Greater Bombay " shall be substituted.
Bom. II of 1932 ..	The Bombay Finance Act, 1932.	1. In section 20— (1) (*a*) In clause (ii) the words " Kurla, Bandra " shall be deleted ; (*b*) To clause (ii), the words " and the limits formerly included in the municipal boroughs of Bandra, Parle-Andheri, Ghatkopar-Kirol and Kurla " shall be added.

Number and year.	Short title.	Amendments.
		(2) For clause (iii) the following shall be substituted, namely :— " (iii) The limits formerly included in the municipal district of Juhu." (3) In clause (iv)— (*a*) the word " Chembur " shall be deleted ; (*b*) to clause (iv) the following shall be added, namely :— " The limits formerly included in notified area of Chembur, and."
		2. In section 21— (1) (*a*) In sub-section (*1*), in clause (*a*), after the word " City of Bombay " the words " and in the limits formerly included in the municipal boroughs of Bandra, Parle-Andheri, Ghatkopar-Kirol and Kurla," shall be substituted ; (2) In sub-section (*1*), in clause (*a*), and in sub-section (*2*) for the words and figures " City of Bombay Municipal Act, 1888 " the words " Bombay Municipal Corporation Act " shall be substituted ; (3) In sub-section (*7*), for the words and figures " the City of Bombay the general tax levied under section 143 of the City of Bombay Municipal Act, 1888 " the words " the City of Bombay and in the limits formerly included in the municipal boroughs of Bandra, Parle-Andheri, Ghatkopar-Kirol and Kurla the general tax levied under section 143 of the Bombay Municipal Corporation Act " shall be substituted ;
		3. In section 27— (1) In sub-section (*1*), in clauses (*a*), (*b*) and (*c*) for the words and figures " City of Bombay Municipal Act, 1888 " the words " Bombay Municipal Corporation Act " shall be substituted ; (2) In clause (*c*) of sub-section (*1*) for the words " Municipal Commissioner for the City of Bombay " the words " Municipal Commissioner for Greater Bombay " shall be substituted ; (3) In sub-section (*1*), and in sub-section (*1A*), for the words " the City of Bombay " the words " Greater Bombay " shall be substituted ; (4) In clause (*c*) of sub-section (*1*), for the words " Corporation of the City of Bombay " the words " Corporation of Greater Bombay " shall be substituted.
Bom. VI of 1933 ..	The Bombay Village Panchayats Act, 1933.	1. In section 2 for the words " the City of Bombay " the words " Greater Bombay " shall be substituted. 2. Chapter VIII-A shall be deleted.
Bom. LXI of 1947 ..	The Bombay Primary Education Act, 1947.	In section 1, in sub-section (*2*) for the words " the City of Bombay " the words " Greater Bombay " shall be substituted.

Number and year.	Short title.	Amendments.
Bom. LXIX of 1948..	The Bombay Housing Board Act, 1948.	In section 34, in clause (*a*) of sub-section (*1*) for the words " the City of Bombay " the words " Greater Bombay " shall be substituted.
Bom. LXXIX of 1948 .	The Bombay Shops and Establishments Act, 1948.	In Schedule I— (*a*) for item No. 1 the following shall be substituted, namely :— " 1. Greater Bombay "; (*b*) the following items shall be deleted :— " 11. The Bandra Municipal area. 12. The Parle-Andheri Municipal Borough. 13. The Ghatkopar-Kirol Municipal area. 15. The Kurla Municipal Area."]

THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1945.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Insertion of new Part I-A in Act I of 1894.
3. Amendment of section 45 of Act I of 1894.
4. Amendment of section 46 of Act I of 1894.

*BOMBAY ACT No. XX OF 1945.[1]

[THE LAND ACQUISITION (BOMBAY AMENDMENT) ACT, 1945.]

[*3rd November 1945.*]

An Act to amend the Land Acquisition Act, 1894,[2] in its application to the Province of Bombay.

I of 1894. WHEREAS it is necessary to amend the Land Acquisition Act, 1894, in its application to the Province of Bombay for the purpose hereinafter appearing;

26 Geo. 5, Ch. 2. AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

Short title. 1. This Act may be called the Land Acquisition (Bombay Amendment) Act, 1945.

Insertion of new Part I-A in Act I of 1894. I of 1894. 2. After Part I of the Land Acquisition Act, 1894, hereinafter called "the said Act", the following Part shall be inserted, namely:—

"PART I-A.

Preliminary Survey.

Preliminary survey of lands and powers of officers to carry out survey. 3A. For the purpose of enabling the Provincial Government to determine whether land in any locality is needed or is likely to be needed for any public purpose, it shall be lawful for any officer of the Provincial Government in the Public Works Department, or any other officer either generally or specially authorised by the Provincial Government in this behalf, and for his servants and workmen,—

(*i*) to enter upon and survey and take levels of any land in such locality,

(*ii*) to mark such levels,

(*iii*) to do all other acts necessary to ascertain whether the land is adapted for such purpose, and

(*iv*) where otherwise the survey cannot be completed and the levels taken, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

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* This Act was repealed and re-enacted by Bom. 10 of 1948, s. 2.

[1] For the Statement, *see Bombay Government Gazette*, 1945, Pt. IV, page 173.

[2] *See* Unrepealed Central Acts, Vol. III, p. 481.

Payment for damage.

3B. The officer of the Provincial Government in the Public Works Department, and any other officer so authorised shall at the time of such entry pay or tender payment for all necessary damage to be done as aforesaid, and, in case of dispute as to the sufficiency of the amount so paid or tendered, shall at once refer the dispute to the decision of the Collector or other chief revenue-officer of the district, and such decision shall be final."

Amendment of section 45 of Act I of 1894.

3. In section 45 of the said Act, for the word and figure " section 4 " the words, figures and letter " section 3A or 4 " shall be substituted.

Amendment of section 46 of Act I of 1894.

4. In section 46 of the said Act—

(*a*) after the word " by " the word, figure and letter " section 3A " shall be inserted ; and

(*b*) after the words " under section " the figure, letter and words " 3A or section " shall be inserted.

THE BOMBAY BEGGARS ACT, 1945.

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*BOMBAY ACT No. XXIII OF 1945.[1]

[THE BOMBAY BEGGARS ACT, 1945.]

[*20th February 1946*]

Amended by Bom. 53 of 1947.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 21 of 1952.

An Act to provide for the prevention of begging, for the detention, training and employment of beggars and their dependents in Certified Institutions, and for the custody, trial and punishment of beggar offenders in the Province of Bombay.

WHEREAS it is expedient to make provision for the prevention of begging, for the detention, training and employment of beggars and their dependents in Certified Institutions, and for the custody, trial and punishment of beggar offenders in the Province of Bombay;

26 Geo. 5 ch. 2. AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature;

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act:—

CHAPTER I.

PRELIMINARY.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Beggars Act, 1945.

(*2*) It extends to the whole of the [2][State] of Bombay but shall come into force in any area thereof only on such date as the [3][State] Government may by notification in the *Official Gazette* appoint in this behalf for that area.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

(*i*) "begging" means—

(*a*) soliciting or receiving, alms in a public place, whether or not under any pretence such as singing, dancing, fortune-telling, performing tricks or selling articles;

(*b*) entering on any private premises for the purpose of soliciting or receiving alms;

(*c*) exposing or exhibiting with the object of obtaining or extorting alms any sore, wound, injury, deformity or disease [4][whether of a human being or an animal];

(*d*) having no visible means of subsistence and wandering about or remaining in any public place in such condition or manner as makes it likely that the person doing so exists by soliciting or receiving alms;

(*e*) allowing oneself to be used as an exhibit for the purpose of soliciting or receiving alms; but does not include—

(*i*) soliciting or receiving alms in or about a temple, mosque or other place of public worship, or

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* This Act was repealed and re-enacted by Bom. 53 of 1947 s. 2.
[1] For the Statement, *see Bombay Government Gazette*, 1945, Pt. V, page 43.
[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Provincial", *ibid.*
[4] These words were added by Bom. 53 of 1947, s. 2 (*1*) (*a*).

(*ii*) soliciting or receiving money or food or gifts for a purpose authorized by any law or authorized in the prescribed manner by the Commissioner of Police in the [1][Greater Bombay] or the District Magistrate elsewhere or by the [2][State] Government :

Provided that on the application of the trustee of any temple, mosque or other place of public worship the [2][State] Government may direct by notification or in the manner prescribed that "begging" shall include soliciting or receiving alms in or about such temple, mosque or other place of public worship ;

(*ii*) "Certified Institution" means any institution which the [2][State] Government provides and maintains for the detention, training and employment of beggars and their dependents and includes an institution certified as such under sub-section (*1*) of section 11 ;

(*iii*) "Chief Inspector" means the Chief Inspector of Certified Institutions appointed under sub-section (*1*) of section 15 ;

(*iv*) "child" has the meaning assigned to it in the [3]Bombay Children Act, 1924 ; Bom. XIII of 1924.

[4][(*iv-a*) "Court" means the court of a salaried Presidency Magistrate in Greater Bombay and that of a Magistrate of the First Class elsewhere ;]

(*v*) "Juvenile Court" has the meaning assigned to it under the [3]Bombay Children Act, 1924 ; Bom. XIII of 1924.

(*vi*) [5]* * * * * *

(*vii*) "prescribed" means prescribed by rules made under this Act ;

(*viii*) "public place" includes a railway train ;

(*ix*) "Receiving Centre" means an institution for the reception and temporary detention of beggars provided by the [2][State] Government or certified as such under sub-section (*1*) of section 10 ;

(*x*) "trustee" means a person by whatever description known in whom the administration of a temple, mosque or other place of public worship is vested by any law for the time being in force or the terms of the instrument of trust or the terms of a decree or order of a competent court, relating to such temple, mosque or other place, or if there is no such person, any person who has administered the temple, mosque or other place for the period of one year immediately prior to the date of the application referred to in the proviso to sub-clause (*e*) (*ii*) of clause (*i*) of this section, and who is liable as if he were a trustee, and if there are more than one such trustee, the majority of the trustees.

CHAPTER II.

PROCEDURE FOR DEALING WITH BEGGARS AND BEGGAR OFFENDERS.

Powers of Courts.

3. The powers conferred on courts by this Act shall be exercised only by the High Court, a court of session, a salaried Presidency Magistrate, a Magistrate of the first class or a Juvenile Court and may be exercised by such Courts whether the case comes before them originally or on appeal or revision.

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[1] These words were substituted for the words "City of Bombay" by Bom. 53 of 1947, s. 2 (*1*) (*b*).
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] See now the Bombay Children Act, 1948 (Bom. 71 of 1948).
[4] This clause was inserted by Bom. 53 of 1947, s. 2 (*1*) (*c*).
[5] This clause was deleted, *ibid*, s. 2 (*1*) (*d*).

Power to require person found begging to appear before court.

4. (*1*) Any police officer or other person authorized in this behalf in accordance with rules made by the [1][State] Government may arrest without a warrant any person who is found begging:

Provided that no person entering on any private premises for the purpose of soliciting or receiving alms shall be so arrested or shall be liable to any proceedings under this Act except upon a complaint of the [2]* * occupier of the premises.

(*2*) Such police officer or other person shall take or send the person so arrested to a court.

V of 1898. Bom. IV of 1902.

(*3*) The provisions of section 61 of the Code of Criminal Procedure, 1898, or section 87 of the City of Bombay Police Act, 1902, as the case may be, shall apply to every arrest under this section, and the officer in charge of the police station or section shall cause the arrested person to be kept in the prescribed manner until he can be brought before a court.

Summary inquiry in respect of persons found begging and their detention.

5. (*1*) Where a person who is brought before the court under section 4 is not proved to have previously been detained in a Certified Institution under this Act, the court shall make a summary inquiry in the prescribed manner as regards the allegation that he was found begging.

(*2*) If the inquiry referred to in sub-section (*1*) cannot be completed frt hwith, the court may adjourn it from time to time and order the person to be remanded to such place and custody as may be convenient.

(*3*) If on making the inquiry referred to in sub-section (*1*), the court is not satisfied that the person was found begging it shall order that such person be released forthwith.

(*4*) If on making the inquiry referred to in sub-section (*1*) the court is satisfied that such person was found begging it shall record a declaration that the person is a beggar. [3] * * * *

(*5*) The court shall order the person declared as beggar under sub-section (*4*) to be detained in a Certified Institution for a period of not less than one and not more than three years:

Provided that if the court is satisfied from the circumstances of the case that the person declared as beggar under sub-section (*4*) is not likely to beg again it may release the beggar after due admonition on a bond for the beggar's abstaining from begging and being of good behaviour being executed with or without sureties as the court may require by the beggar or any other person whom the court considers suitable.

(*6*) A copy of the order made under sub-section (*5*) shall forthwith be sent to the Chief Inspector.

(*7*) Notwithstanding anything in this section when the person declared as beggar under sub-section (*4*) is a child not below the age of five years the court shall forward it to a Juvenile Court and shall not make any order under sub-section (*5*). The Juvenile Court shall deal with it under section 7 of the [4]Bombay Children Act, 1924, as if the child was as described in clause (*a*) of sub-section (*1*) of that section. For the purpose of this sub-section, the court may if necessary cause the beggar to be examined by a medical officer.

Bom. XIII of 1924.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] The words "owner or" were deleted by Bom. 53 of 1947, s. 2 (*2*).
[3] The words and figures beginning with the words "The Court shall also" and ending with the words "hereinafter provided" were deleted by Bom. 21 of 1952, s. 2.
[4] *See* now the Bombay Children Act, 1948 (Bom. 71 of 1948).

Penalty for begging after detention as beggar.

6. (*1*) Whoever having been previously detained in a Certified Institution under this Act is found begging shall on conviction be punished as hereinafter in this section provided.

(*2*) When a person is convicted for the first time under sub-section (*1*) the court shall order him to be detained in a Certified Institution for not less than three years and not more than seven years and may convert any period of such detention not exceeding one year into a sentence of imprisonment extending to a like period.

(*3*) When a person is convicted for the second or subsequent time under sub-section (*1*) the court shall order him to be detained for ten years in a Certified Institution and may convert any period of such detention not exceeding two years into a sentence of imprisonment extending to a like period.

Contribution of parents.

[1][**6A.** (*1*) The Court, which makes an order for the detention of any person (hereinafter called the said person) in a Certified Institution under section 5 or 6, may make an order on the parent or other person liable to maintain the said person to contribute to his maintenance, if able to do so, in the prescribed manner.

(*2*) The Court before making any order under sub-section (*1*) shall inquire into the circumstances of the parent or other person liable to maintain the said person and shall record evidence, if any, in the presence of the parent or such other person, as the case may be.

(*3*) Any order made under this section may be varied by the Court on an application made to it by the party liable or otherwise.

(*4*) Any order made under this section may be enforced in the same manner as an order under section 488 of the Code of Criminal Procedure, 1898.] V of 1898.

Court may order detention of persons wholly dependent on beggar.

7. (*1*) When the court has ordered the detention of a person in a Certified Institution under section 5 or 6 it may after making such inquiry as it thinks fit order any other person who is wholly dependent on such person to be detained in a Certified Institution for a like period:

Provided that before such order is made such dependent person shall be given an opportunity of showing cause why it should not be made.

(*2*) Where the dependent person is a child the court shall forward it to a Juvenile Court which shall deal with it under section 7 of the [2]Bombay Children Act, 1924, as if the child was as described in clause (*a*) of sub-section (*1*) of that section : Bom. XIII of 1924.

Provided that where the dependent person is the beggar's own child below the age of five years and the beggar is an able-bodied mother not being a contagious leper or a lunatic the child may be ordered to be detained in a Certified Institution without being separated from the mother as regards the place of detention, until it attains the age of five years and thereafter dealt with as provided in this sub-section.

(*3*) For the purpose of this section, the court may if necessary cause the dependent person to be arrested and brought before itself and examined by a medical

[1] Section 6A was inserted by Bom. 21 of 1952, s. 3.
[2] See now the Bombay Children Act, 1948 (Bom. 71 of 1948).

officer. The provisions of section 61 of the Code of Criminal Procedure, 1898, or section 87 of the City of Bombay Police Act, 1902, as the case may be, shall apply to every arrest under this sub-section, and the officer in charge of the police station or section shall cause the arrested person to be kept in the prescribed manner until he can be brought before a Court.

V of 1898. Bom. IV of 1902.

Power of Government to order further detention of incurably helpless beggars.

8. When any person who is detained in a Certified Institution under section 5, 6 or 7 is, whether on an application made by him to the [1][State] Government or otherwise, considered by the [1][State] Government to be blind, cripple, or otherwise incurably helpless, the [1][State] Government may order that he shall, after the expiry of the period of his detention be further detained indefinitely in a Certified Institution :

Provided that the [1][State] Government may release any such inmate if any person whom the [1][State] Government considers suitable executes a bond, with or without sureties as the [1][State] Government may require making himself responsible for the housing and maintenance of such inmate and for preventing him from begging or being used for the purpose of begging.

Penalty for employing or causing persons to beg or using them for purposes of begging.

9. Whoever employs or causes any person to solicit or receive alms, or whoever having the custody, charge or care of a child connives at or encourages the employment or the causing of a child to solicit or receive alms, and whoever uses another person as an exhibit for the purpose of begging, shall on conviction be punishable with imprisonment for a term which may extend to one year and thereafter with detention in a Certified Institution for a period of not less than one year and not more than three years or with imprisonment for a further term which may extend to one year in lieu of such detention.

CHAPTER III.

Receiving Centres and Certified Institutions.

Provision of Receiving Centres.

10. (*1*) The [1][State] Government may provide and maintain one or more Receiving Centres at such place or places as it thinks fit or may certify any institution to be a Receiving Centre for the purposes of this Act.

(*2*) Every such Receiving Centre shall be under the control of an officer-in-charge.

Provision of Certified Institutions.

11. (*1*) The [1][State] Government may provide and maintain one or more Certified Institutions at such place or places as it thinks fit or may certify any institution to be a Certified Institution for the purposes of this Act. Any such Certified Institution may include provision for the teaching of agricultural, industrial and other pursuits and for the general education and medical care of the inmates.

(*2*) Every such certified Institution shall be under the charge of a Superintendent.

Visiting Committees.

12. For every Receiving Centre and every Certified Institution the [1][State] Government shall appoint a visiting committee in such manner as may be prescribed.

Advisiory Committees.

13. (*1*) The [1][State] Government may constitute for any area in which this Act has come into force under sub-section (2) of section 1 an Advisory Committee consisting of such persons not exceeding twenty in number as it may appoint :

Provided that where a local authority has agreed to render such financial assistance as the [1][State] Government may consider proper in each case for the maintenance of Certified Institutions in which beggars from the area subject to the jurisdiction

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

of the local authority are detained, the [1][State] Government shall appoint such number of persons as it deems fit on the Advisory Committee for such area representing the local authority.

(*2*) The Advisory Committee constituted under sub-section (*1*) in any local area or any member thereof may visit at all reasonable times and after due notice to the Superintendent any Certified Institution in which beggars from that area are detained.

(*3*) The Advisory Committee may also—

(*i*) tender advice as regards management to any Certified Institutions through the Chief Inspector or such other officer as the [1][State] Government may specify ;

(*ii*) collect subscriptions towards the recurring as well as non-recurring expenses of any or all Certified Institutions within the local area or in which beggars from that area are detained ; and disburse the collections in the prescribed manner ;

(*iii*) advise the [1][State] Government through the Chief Inspector as regards the certification of any Institution as a Certified Institution or the de-certification of any Certified Institution within the local area ;

(*iv*) advise the [1][State] Government generally on the working of this Act in that area and particularly on any point referred to it by the Chief Inspector or any other officer specified by the [1][State] Government.

Payment of contribution by local authorities and recovery thereof.

14. (*1*) Notwithstanding anything contained in any law for the time being in force, any local authority which has agreed to pay a certain sum of money for the maintenance of a Certified Institution shall make payment of that sum to the [1][State] Government before a date prescribed in that behalf.

(*2*) If any sum is not paid by a local authority under sub-section (*1*) before the prescribed date, the [1][State] Government may make an order directing any person, who for the time being has custody of any moneys on behalf of the local authority, as its officer, treasurer, banker or otherwise to pay the sum from such moneys as he may have in his hands or may from time to time receive to the [1][State] Government and such person shall be bound to obey such order.

Appointment of Chief Inspector and Assistants.

15. (*1*) For carrying out the purposes of this Act, the [1][State] Government may appoint a Chief Inspector of Certified Institutions, an Inspector and such number of Assistant Inspectors as it thinks advisable to assist the Chief Inspector ; and every person so appointed to assist the Chief Inspector shall have such of the powers and duties of the Chief Inspector as the [1][State] Government directs but shall act under the direction of the Chief Inspector.

(*2*) Every Receiving Centre and Certified Institution shall, at least once in every six months, be inspected by the Chief Inspector or Inspector or Assistant Inspector.

Search in Receiving Centres and Certified Institutions.

16. The officer in charge of Receiving Centre or Superintendent of a Certified Institution may order that any person received in the Receiving Centre or Certified Institution [2][shall be searched, that he shall be cleansed], that his personal effects shall be inspected, and that any money or valuables found with or on the person shall be kept in the custody of such officer or Superintendent, and that any effects other than money or valuables so found shall be disposed of in the prescribed manner. Where an order of detention is passed by the court against any such person, the officer or Superintendent, as the case may be, may order that any money [3][or valuables found with or on the persons shall be disposed of in the prescribed manner].

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] These words were substituted for the original by Bom. 53 of 1947, s. 2 (*4*) (*a*).
[3] These words were substituted for the original, *ibid.* s. 2 (*4*) (*b*).

Where the court passes an order other than an order of detention with regard to any such person his money and valuables shall be returned to him and if his clothing has been destroyed, he shall be provided with fresh clothing. The expenses of providing such clothing shall be borne by the [1][State] Government :

Provided that a female person shall be searched by a female only and with due regard to decency.

Management and discipline.

17. Persons remanded to or detained in Receiving Centres and Certified Institutions under this Act shall be subject to such rules of management and discipline, including the imposition of manual or other work and the awarding of punishment for breach of any such rule, as may from time to time be prescribed.

Disciplinary imprisonment.

18. (*1*) Without prejudice to any disciplinary action that may be taken under section 17, the Chief Inspector may report to the court the case of any person detained in a Certified Institution who habitually wilfully disobeys or neglects to comply with any rule referred to in section 17 and the court may thereupon if satisfied that the person has wilfully disobeyed or neglected to comply with any such rule convert any period of his detention in a Certified Institution not exceeding three months into a term of imprisonment extending to a like period.

(*2*) The sentence of imprisonment ordered under sub-section (*1*) shall be executed in the same manner as a sentence passed under section 6.

Transfer from one Receiving Centre or Certified Institution to another.

19. (*1*) Subject to the prescribed conditions the Chief Inspector may direct any person detained in a Receiving Centre or Certified Institution to be transferred therefrom to another Receiving Centre or Certified Institution :

Provided that the total period of detention of such person shall not be increased by such transfer.

(*2*) In directing such transfers the Chief Inspector shall have regard to the medical report and the directions, if any, made by the court under section 25.

Release on licence.

20. (*1*) Subject to the prescribed conditions the Chief Inspector may at any time grant permission to a person detained in a Certified Institution to absent himself for short periods or release him conditionally by granting him a licence.

(*2*) Any licence granted under sub-section (*1*) shall be in force until the expiry of the term for which the person was ordered to be detained in a Certified Institution unless sooner revoked.

(*3*) The period during which such person is absent from a Certified Institution during the continuance of a permission or licence granted to him under this section shall for the purpose of computing his term of detention in a Certified Institution be deemed to be part of his detention.

Revocation of licence.

21. (*1*) Subject to the prescribed conditions the Chief Inspector may at any time revoke a licence granted under section 20, and thereupon the released person shall be detained in a Certified Institution until the expiry of the term for which he had been ordered to be detained.

(*2*) For the purpose of this section the Chief Inspector may, if necessary, cause the released person to be arrested and sent to the nearest Receiving Centre together with a copy of the order of detention, and thereupon the provisions of sub-section (*1*) of section 24 shall as far as may be apply.

[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.

Unconditional release.

22. At any time after the expiration of three months from the commencement of the release on licence of any person under section 20, the Chief Inspector may if he is satisfied that there is a probability that such person will abstain from begging recommend to the [1][State] Government his unconditional release. The [1][State] Government may on such recommendation release such person unconditionally and thereupon the term for which such person had been ordered to be detained in a Certified Institution shall be deemed to have expired.

CHAPTER IV.

MISCELLANEOUS.

23. [*Externment from the State of beggars not domiciled therein.*] *Deleted by Bom. 21 of 1952, s. 4.*

Procedure on order of detention or sentence of imprisonment.

24. (*1*) Subject to the provisions of sub-section (*2*) when a person has been ordered to be detained in a Certified Institution under section 5, 6, 7, [2][or 9], the court which ordered the detention shall forthwith forward him to the nearest Receiving Centre with a copy of the order of detention. The person shall thereupon be handed over to the custody of the officer in charge of the Receiving Centre and shall be detained in the Receiving Centre until he is sent therefrom to a Certified Institution.

(*2*) When any such person has also been sentenced to imprisonment, the court passing the sentence of imprisonment shall forthwith forward a warrant to a jail in which he is to be confined and shall forward him to such jail with the warrant together with a copy of the order of detention. After the sentence of imprisonment is fully executed, the Officer executing it shall, if detention in a Certified Institution for any period remains to be undergone by such person, forward him forthwith together with the copy of the order of detention to the nearest Receiving Centre, and thereupon the provisions of sub-section (*1*) shall as far as may be apply.

(*3*) In computing the period for which a person is ordered to be detained in a Certified Institution there shall be included the period for which he is detained in a Receiving Centre under this section.

Medical examination and detention of lepers and lunatics.

25. (*1*) After a person is received in a Receiving Centre under section 24, the officer-in-charge of the Receiving Centre shall cause him to be examined, as soon as may be, by such Medical Officer, as the [1][State] Government by general or special order directs.

(*2*) The Medical Officer shall make his report to the officer-in-charge of the Receiving Centre stating *inter alia*—

(*a*) the age and sex of the person,

(*b*) whether the person is a leper suffering from contagious leprosy or not,

(*c*) from what, if any, communicable disease other than leprosy the person is suffering,

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[2] This word and figure were substituted for the figures and word "9 or 23" by Bom. 53 of 1947, s. 2 (*6*).

(*d*) whether the person is an idiot or of unsound mind, and

(*e*) what is the general state of health and bodily condition of the person and for which kind of work, if any, he is fit.

(*3*) Where the medical report states that the beggar is a contagious leper or a lunatic, the officer-in-charge of the Receiving Centre shall forthwith forward the report to the Court which passed the order of detention. The Court shall thereupon examine the Medical Officer as a witness and shall reduce the examination to writing. If after the examination and upon such further equiry, if any, as it thinks fit, the Court is of opinion that the beggar is a contagious leper or a lunatic it shall record a finding to that effect and shall direct that the detention already ordered shall be undergone by the beggar,—

III of 1898. (*i*) if a contagious leper, in a leper asylum appointed under section 3 of the Lepers Act, 1898, and which has been certified to be a Certified Institution under sub-section (*1*) of section 11 ;

IV of 1912. (*ii*) if a lunatic, in an asylum established or licensed under section 84 of the Indian Lunacy Act, 1912, and which has been certified to be a Certified Institution under sub-section (*1*) of section 11 ;

(*iii*) if neither a contagious leper nor a lunatic, in any other Certified Institution ;

III of 1898. IV of 1912. III of 1898. IV of 1912. (*iv*) notwithstanding anything contained in the Lepers Act, 1898, or the Indian Lunacy Act, 1912, if any leper asylum appointed under section 3 of the Lepers Act, 1898, or any asylum established or licensed under section 84 of the Indian Lunacy Act, 1912, is certified to be a Certified Institution under sub-section (*1*) of section 11, the Superintendent of such leper asylum or the person in charge of such lunatic asylum, as the case may be, shall also have authority to detain persons sent thereto in accordance with a direction of the court under this section.

Arrest of person escaping from Receiving Centre or Certified Institution.

26. Any person who leaves a Receiving Centre without the permission of the officer-in-charge thereof or who leaves a Certified Institution without the permission of the Superintendent in charge thereof or fails to return thereto after the expiry of the period of absence permitted under sub-section (*1*) of section 20 may be arrested by a police officer without a warrant [1][or by an officer of the Receiving Centre or Certified Institution authorized in this behalf by the [2][State] Government] and sent back to the Receiving Centre or Certified Institution, as the case may be.

Transfers between Certified Institution and Institution of like nature in different parts of India.

27. [3][(*1*)] The [2][State] Government may direct any person detained in a Certified Institution to be transferred therefrom to any Institution of a like nature in any other part of [4]* India [4]* * * in respect of which provision similar to that in the [5][State] of Bombay is made by the [2][State] Government of that part under any law in force therein :

Provided that no person shall be transferred under this section to any other [5][State] [4]* * * without the consent of the Government of that other [5][State] [4]* * *

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[1] These words were inserted by Bom. 53 of 1947, s. 2 (*7*).
[2] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[3] Section 27 was renumbered as sub-section (*1*) of that section by Bom. 21 of 1952, s. 5.
[4] The words " British ", " or in any Indian State ", " or by the Government of that Indian State " and " or Indian State " were omitted by the Adaptation of Laws Order, 1950.
[5] This word was substituted for the word " Province ", *ibid.*

[1][(2) The State Government may, in consultation with the Superintendent of any Certified Institution, consent to the transfer to that Institution of any person in respect of whom an order of detention has been made by a competent authority in any other part of India of the nature of an order under this Act directing him to be detained in a Certified Institution or institution of a like nature and upon such transfer, the provisions of this Act shall apply to such person.]

Power to take finger prints.

28. (*1*) Every person ordered to be detained in a Certified Institution under this Act shall at any time allow his finger prints to be taken by the Commissioner of Police or any officer empowered by him in this behalf in the [2][Greater Bombay] and by the District Magistrate or any Officer empowered by him in this behalf elsewhere.

(*2*) Whoever refuses to allow his finger prints to be taken under sub-section (*1*) shall on conviction be liable to have his period of detention in a Certified Institution not exceeding three months converted to a term of imprisonment extending to a like period.

(*3*) The sentence of imprisonment ordered under sub-section (*2*) shall be executed in the same manner as a sentence passed under section 6.

Seizure and disposal of animals exposed or exhibited for obtaining or extorting alms.

[3][**28A.** (*1*) Any police officer or other person effecting under sub-section (*1*) of section 4 the arrest of a person who was found begging may seize any animal the sore, wound, injury, deformity or disease of which was exposed or exhibited by such person with the object of obtaining or extorting alms.

(*2*) The police officer or other person effecting the arrest may remove such animal to any infirmary appointed under section 6B of the Prevention of Cruelty to Animals Act, 1890, for detention therein pending its production before a court. XI of 1890.

(*3*) The court before which the person found begging is brought may direct that the animal shall be treated and cared for in such infirmary until it is fit for discharge or that it shall be sent to a *pinjrapole*, or, if the veterinary officer in charge of the area in which the animal is found or such other veterinary officer as has been authorised by the rules made under section 15 of the Prevention of Cruelty to Animals Act, 1890, certifies that it is incurable or cannot be removed without cruelty, that it shall be destroyed; and the court may also order that, after release from the infirmary, the animal may be confiscated. XI of 1890.

(*4*) An animal sent for care and treatment to an infirmary shall not, unless the court directs that it shall be sent to a *pinjrapole* or that it shall be destroyed, be released from such place except upon a certificate of its fitness for discharge issued by the veterinary officer in charge of the area in which the infirmary is situated or such other veterinary officer as has been authorised by rules made under section 15 of the Prevention of Cruelty to Animals Act, 1890.] XI of 1890.

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[1] This sub-section was inserted by Bom. 21 of 1952, s. 5.

[2] These words were substituted for the words "City of Bombay" by Bom. 53 of 1947, s. 2 (*8*).

[3] This section was inserted, *ibid*, s. 2 (*9*).

Offences to be cognizable and non-bailable.

29. The offences under sections 6 [1][and 9] of this Act shall be cognizable and non-bailable.

Persons to be deemed public servants.

XLV of 1860.

30. All persons empowered to perform any function under this Act shall be deemed to be public servants within the meaning of the Indian Penal Code.

Bonds taken under Act V of 1898.

V of 1898.

31. The provisions of Chapter XLII of the Code of Criminal Procedure, 1898, shall, so far as may be, apply to bonds taken under this Act.

Appeals.

V of 1898.

32. For the purposes of appeal and revision under the Code of Crir inal Procedure, 1898, an order of detention under this Act (including an order of detention under section 5), shall be deemed to be a sentence of imprisonment for the same period.

Rules.

33. (*1*) The [2][State] Government may by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely :—

(*a*) the manner of authorizing a purpose under sub-clause (*e*) (*ii*) of clause (*i*) of section 2 ;

[3][(*aa*) the manner in which the enquiry as regards birth and domicile shall be made under sub-section (*4*) of section 5 ;]

[4][(*ab*) the manner in which contribution for the maintenance of a person detained in a Certified Institution may be ordered to be paid under sub-section (*1*) of section 6A ;]

(*b*) the manner of keeping persons arrested under sub-section (*3*) of section 4 or section 7 ;

(*c*) the manner of making summary inquiry under sub-section (*1*) of section 5 ;

(*d*) the conduct of business by Advisory Committees ;

(*e*) the manner of appointing a visiting committee under section 12 ;

(*f*) the date before which payment shall be made under sub-section (*1*) of section 14 ;

[5][(*g*) the manner in which the effects and the money and valuables referred to in section 16 shall be disposed of ;]

(*h*) the management and discipline of persons detained in a Receiving Centre or Certified Institution including the imposition of manual or other work and the awarding of punishment for breach of any rule made under this clause ;

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[1] This word and figure were substituted for the figures and word "9 and 23" by Bom. 21 of 1952, s. 6.
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This clause was inserted by Bom. 53 of 1947, s. 2 (*10*) (*a*).
[4] Clause (*ab*) was inserted by Bom. 21 of 1952, s. 7.
[5] This clause was substituted for the original by Bom. 53 of 1947, s. 2 (*10*) (*b*).

(*i*) the conditions subject to which the Chief Inspector may direct transfers under section 19 ;

(*j*) the conditions subject to which a person may be released on licence under section 20 ;

(*k*) the conditions subject to which a licence may be revoked under section 21 ;

(*l*) the manner of medical examination of beggars ;

(*m*) any other matter which is required to be or may be prescribed.

Repeal.

34. (*1*) On the date on which this Act comes into force in the [1][Greater Bombay], in the City of Bombay Police Act, 1902,— Bom. IV of 1902.

(*i*) in sub-section (*2*) of section 27 for the figures " 121 " the following shall be substituted, namely :—

" 6, 9 or 23 of the Bombay Beggars Act, 1945 ", and Bom. XXIII of 1945.

(*ii*) section 121 shall be repealed.

(*2*) On the date on which this Act comes into force in any area outside the [1][Greater Bombay], sub-section (*2*) of section 61 of the Bombay District Police Act, 1890, shall be repealed in its application to the said area. Bom. IV of 1890.

Saving.

35. Nothing in this Act shall apply to vagrants within the meaning of the European Vagrancy Act, 1874. IX of 1874.

[1] These words were substituted for the words " City of Bombay" by Bom. 53 of 1947, s. 2 (*11*).

The Bombay Sales Tax Act, 1946 (Bom. V of 1946), at pages 2251-2272C has been repealed by the Bombay Sales Tax Act, 1952 (Bom. XXIV of 1952), section 47.

THE BOMBAY SALES OF MOTOR SPIRIT TAXATION ACT, 1946.

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*BOMBAY ACT No. VI OF 1946.[1]

[THE BOMBAY SALES OF MOTOR SPIRIT TAXATION ACT, 1946.]

[*8th March 1946*]

Amended by Bom. 9 of 1948.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 50 of 1950.
,, ,, ,, 13 of 1952.

An Act to provide for the levy of a tax on the sales of motor spirit in the Province of Bombay.

WHEREAS it is expedient to provide for the levy of a tax on the sales of motor spirit in the Province of Bombay ;

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act, in the Provincial Legislature ;

26 Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Sales of Motor Spirit Taxation Act, 1946.

(*2*) It shall extend to the whole of the [2][State] of Bombay.

(*3*) This section shall come into force at once and the rest of this Act shall come into force on such date as the [3][State] Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

Bom. V of 1946.

[4][(*A-1*) "Collector" means the Collector of Sales Tax appointed under the Bombay Sales Tax Act, 1946] ;

(*1*) "consumer" means a person who purchases motor spirit for the purpose of consumption and not for resale ;

(*2*) "importer" means a person who carries on the trade of importing motor spirit into the [2][State] of Bombay ;

(*3*) "licence" means a licence granted or renewed under this Act ;

[5][(*4*) "manufacturer" includes a trader preparing any kind of motor spirit by admixture of one or more kinds of motor spirits with or without other petroleum products or alcohol ;

(*4A*) "motor spirit" means—

(*a*) any inflammable hydro-carbon (including any mixture of hydro-carbons or any liquid containing hydro-carbons) which is capable of being used for providing reasonably efficient motive power for any form of motor vehicle ; and

(*b*) power alcohol, that is, ethyl alcohol of any grade (including such alcohol when denatured or otherwise treated), which either by itself or in admixture with any such hydro-carbon, is capable of being used as aforesaid ;

but does not include diesel oil or any other form of inflammable hydro-carbon material which the State Government may by notification in the *Official Gazette* specify in this behalf] ;

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* This Act was repealed and re-enacted by Bom. 9 of 1948, s. 2.
[1] For the Statement, *see Bombay Government Gazette*, 1946, Pt. IV, p. 106.
[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.
[3] This word was substituted for the word "Provincial" *ibid.*
[4] Clause (*A-1*) was inserted by Bom. 50 of 1950, s. 2 (*1*).
[5] Clauses (*4*) and (*4-A*) were substituted for clause (*4*), *ibid*, s. 2 (*2*).

(5) " Prescribed " means prescribed by rules made under this Act ;

(6) " retail sale " means a sale of motor spirit for the purpose of consumption by the person by whom or on whose behalf it is or may be purchased ;

(7) " retail trader " means a trader who sells motor spirit for the purpose of consumption by the person by whom on or whose behalf it is or may be purchased ;

(8) " trader " means a person who carries on the business of buying or selling motor spirit for the purpose of gain or profit and includes—

(a) a manufacturer, or

(b) an importer,

who carries on such business, and

(c) a broker or commission agent working in connection with such business.

The words " trade " or " trading " shall be construed accordingly.

[1][(9) " wholesale trader " means a trader whose sales of motor spirit includes any sales other than retail sales.]

Levy of tax.

3. (1) There shall be levied and collected a tax on the sale of motor spirit at such stage between its manufacture or import, as the case may be, and its consumption, as may be prescribed :

Provided that such tax shall not be levied on its sale at more than one such stage.

[2] * * * *

(2) Subject to the provisions of section 4, the tax under sub-section (1) shall be levied by the Collector at the prescribed time, in the prescribed manner and [3][at such rate or rates as may be prescribed in respect of different kinds of motor spirits not exceeding [4][18 ¾ per cent.] on the value of sales of such motor spirits].

(3) If any tax payable under sub-section (1) is not paid within the prescribed time, the Collector may in lieu thereof, recover any sum not exceeding double the amount of the tax so unpaid or any smaller sum above the amount of the tax which the Collector may think it reasonable to recover.

Assessment of tax.

4. (1) In cases where accounts are kept and maintained and statements submitted in the manner and at the period prescribed under section 10, the tax leviable under section 3 shall be assessed by the Collector on the value of sales as disclosed in such accounts and statements.

(2) In cases where no such accounts are kept and maintained or where no such statements are submitted, or where such accounts or statements are in the opinion of the Collector false or incorrect, the Collector shall make the assessment to the best of his judgment.

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[1] Clause (9) was substituted for the original by Bom. 50 of 1950, s. 2 (2).

[2] Proviso was deleted, *ibid*, s. 3.

[3] This portion was substituted for the portion " at a prescribed rate not exceeding 12½ per cent. on the value of the sale of motor spirit ", *ibid*.

[4] These figures and words were substituted for the figures and words " 12½ per cent. " by Bom. 13 of 1952, s. 2.

Government may grant refund of tax in certain cases.

5. Where motor spirit on the sale of which to a wholesale trader the tax is levied and collected under section 3, is exported outside the [1][State] of Bombay, the wholesale trader concerned shall, subject to such conditions as may be prescribed and upon an application made in this behalf, be entitled to a refund of the tax levied and collected in respect of such motor spirit.

Utilization of proceeds of tax.

[2][**5A.** (*1*) The proceeds of the tax and penalties other than fine recovered under this Act shall first be credited to the Consolidated Fund of the State.

(*2*) After deducting from the said proceeds, such sum not exceeding 50 per cent. of the said proceeds, as the State Government may determine in this behalf, the remaining amount shall be entered in and transferred to the State Road Fund referred to in sub-section (*3*) of section 9 of the Bombay Motor Vehicles Tax Act, 1935, and shall, subject to the provisions of the said sub-section (*3*), be expended in the manner and for the purpose stated in the said sub-section (*3*).

Bom. XXXIV of 1935.

(*3*) The amount transferred to the State Road Fund under sub-section (*2*) shall be charged on the Consolidated Fund of the State.]

Trader to take out licence.

6. (*1*) Every trader carrying on business in the sale or purchase of motor spirit shall obtain a licence from the Collector for carrying on such trade.

(*2*) Where a trader has more than one shop or place of business whether in the same town or village or in different towns or villages, he shall obtain a separate licence in respect of each shop or place of business.

(*3*) Notwithstanding anything contained in this section, a hawker shall be liable to obtain one licence, whatever may be the area of his operation.

(*4*) Every trader shall get his licence renewed before the date on which it expires.

Bom. V of 1939.

(*5*) A licence granted or renewed under the Bombay Sales Tax Act, 1939, shall be deemed to be licence granted or renewed under this Act.

Expiry and renewal of licence.

7. (*1*) Every licence shall be in such form and subject to such conditions as may be prescribed and shall expire on the last day of the year for which it was granted but may be renewed from year to year :

Provided that in case of any licence given to a manufacturer or importer the conditions of such licence may provide that the holder of the licence shall not sell motor spirit except to a wholesale trader or a consumer.

(*2*) The Collector may impose for the grant or renewal of every licence such fee not exceeding Rs. 2 as may be prescribed.

Explanation.—In this section " year " means the financial year.

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[1] This word was substituted for the word " Province " by the Adaptation of Laws Order, 1950.
[2] Section 5A was inserted by Bom. 13 of 1952, s. 3.

No trader to carry on business without licence.

8. No trader shall carry on business in the sale or purchase of motor spirit without holding a licence under section 6.

Penalty for contravention of section 8.

9. Whoever contravenes the provisions of section 8 shall, on conviction, be [1][punished] with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Traders and other persons to [4][keep accounts and submit statements].

10. [2][(*1*)] Every trader carrying on business in the sale or purchase of motor spirit shall keep and maintain accounts in the form prescribed of the value of motor spirit (manufactured or imported), sold or purchased by him and shall submit to the officer authorised in this behalf by the Collector statements in such form and at such period as may be prescribed.

[3][(*2*) Every trader required to furnish any statement under sub-section (*1*) shall, before the date by which such statement is submitted, pay into a Government treasury or the Reserve Bank of India on Government account the full amount of the tax stated in such statement to be due from him under this Act and shall furnish along with such statement a receipt from the treasury or Bank, as the case may be, showing the payment of such amount of the tax.]

Penalty for failure to keep accounts or submit returns.

11. If any trader liable under section 10 to keep accounts or to submit statements [5][fails, without sufficient cause, to keep or submit the same in the manner and at the period prescribed or keeps false accounts or submits false statements], he shall, on conviction, be [6][punished] with fine which may extend to [7][Rs. 1,000] and in the case of a continuing failure with an additional fine which may extend to Rs. 50 for every day during which such failure continues, after conviction for the first such failure.

Production and inspection of accounts and documents and search of premises.

[8][**12.** (*1*) The Collector may, for the purposes of this Act, at all reasonable times—

(*a*) require any person, to whom sub-section (*1*) of section 6 applies, to produce before him accounts, registers or other documents or to furnish any other information, or

(*b*) inspect the accounts, registers and other documents and the stocks of any motor spirit manufactured, stored or kept in any shop, warehouse or place of business of any such person, or

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[1] This word was substituted for the word "punishable" by Bom. 13 of 1952, s. 4.

[2] Section 10 was renumbered as sub-section (*1*) of that section, *ibid.*, s. 5 (*1*).

[3] Sub-section (*2*) was inserted, *ibid.*, s. 5 (*2*).

[4] These words were substituted for the words "keep and maintain accounts", *ibid.*, s. 5 (*3*).

[5] These words were substituted for the words "fails to keep or submit the same in the manner and at the period prescribed", *ibid*, s. 6 (*1*).

[6] This word was substituted for the word "punishable", *ibid.*, s. 6 (*2*).

[7] These letters and figures were substituted for the letters and figures "Rs. 500", *ibid*, s. 6 (*3*).

[8] Sections 12 and 12A were substituted for the original section 12, *ibid.*, s. 7.

(*c*) enter and search any building, vessel, vehicle or place in which he has reason to believe that any motor spirit is stored or kept for the purpose of sale or manufacture.

(*2*) If the Collector has reason to suspect that any person is attempting to commit an offence punishable under this Act, he may for reasons to be recorded in writing seize such accounts, registers or other documents of such person as may be necessary and shall grant a receipt for the same and retain the same only for so long as may be necessary for examination thereof or for a prosecution.

Penalty for failure to comply with requirements of section 12 or obstructing officer in discharge of duties.

12A. Whoever—

(*a*) fails to comply with any requirement made of him under sub-section (*1*) of section 12, or

(*b*) produces false accounts, registers or documents or knowingly furnishes false information, or

(*c*) obstructs any officer making an inspection, search or seizure under the said section, or

(*d*) aids or abets any person in the commission of any act specified in clause (*a*), (*b*) or (*c*) of this section—

shall, on conviction, be punished with fine which may extend to two thousand rupees and in the case of a continuing contravention with an additional fine which may extend to one hundred rupees for every day during which such contravention continues after conviction for the first such contravention.]

Suspension or cancellation of licence.

13. (*1*) Subject to such conditions as may be prescribed, the Collector may suspend or cancel a licence given under section 6—

(*a*) if any tax payable under section 3 is not duly paid by the holder of such licence ; or

(*b*) if there is any breach of any of the conditions subject to which the licence is granted ; or

(*c*) if the holder of such licence contravenes any of the provisions of this Act or the rules made thereunder.

(*2*) If the licence is suspended or cancelled for any reason, the licensee shall not be entitled to any compensation for such suspension or cancellation or to the refund of any fee paid in respect thereof.

Power of entry and search.

14. Any officer specially empowered by the [1][State] Government in this behalf may enter and search, at any time, by day, or by night any building, vessel, vehicle or place in which he has reason to believe that motor spirit is kept for the purposes of sale.

Searches how made.

V of 1898.

15. All searches made under section 14 shall be made in accordance with the provisions of the Code of Criminal Procedure, 1898.

[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

Power of investigation.

16. (*1*) Every officer not below such rank as may be prescribed shall, within the area for which he is appointed, have power to investigate all offences punishable under this Act.

(*2*) Every such officer shall, in the conduct of such investigation exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence. V of 1898.

Offences to be bailable.

17. All offences punishable under this Act shall be bailable.

Power to compound offences.

18. [1][(*1*) The Collector may accept from any person who has committed an offence punishable under this Act or the rules made thereunder by way of composition of such offence, such sum of money as the Collector may fix, which shall not exceed—

(*i*) a sum double the amount of the tax payable under section 3 in respect of any sales conducted by such person, or

(*ii*) two thousand rupees,

whichever is greater.]

(*2*) On the payment of such sum of money to the Collector the accused person shall be discharged, and no further proceedings shall be taken against such person in respect of such offence.

Jurisdiction to try offences.

19. No Magistrate, below the rank of a Presidency Magistrate or a Magistrate of the Second Class, shall try an offence under this Act.

Delegation of power by Collector.

20. Subject to the general or special orders of the [2][State] Government the Collector may delegate any of the powers conferred upon him by or under this Act [3][to any person appointed to assist him under section 3 of the Bombay Sales Tax Act, 1946, not below the rank of a Sales Tax Officer (Junior)]. Bom. V of 1946.

Officers to be public servants.

21. All officers acting under this Act shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code. XLV of 1860.

Protection of persons acting in good faith and limitation of suits and prosecutions.

22. (*1*) No suit, prosecution or other legal proceedings shall be instituted against any officer of the [4][Government] for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

(*2*) No suit shall be instituted against the [5][State] of Bombay and no prosecution or suit shall be instituted against any officer of the [4][Government] in respect of anything done or intended to be done, under this Act unless the suit or prosecution has been instituted within six months from the date of the act complained of.

Appeal and revision.

23. [6][(*1*) Within sixty days of the making of any order under this Act, other than an order made by the Collector any person aggrieved by such order may, in the prescribed manner, appeal to the prescribed authority against such order.]

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[1] This sub-section was substituted for the original by Bom. 13 of 1952, s. 8.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] This portion was substituted for the words "to any officer not below the rank of a Mamlatdar or Mahalkari" by Bom. 50 of 1950, s. 4.

[4] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the word "Province", *ibid.*

[6] This sub-section was substituted for the original by Bom. 50 of 1950, s. 5.

(*2*) Every order passed in appeal under this section shall, subject to the powers of revision conferred by [1][sub-sections (*2A*) and (*3*)], be final.

[2][(*2A*) Subject to such rules as may be made in this behalf and for reasons to be recorded in writing, the Collector may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person to whom he has delegated any of his powers under section 20 :

Provided that—

(*a*) no application under this sub-section shall be entertained if it is not made within a period of four months from the date of the order ;

(*b*) before rejecting any application for the revision of any such order the Collector shall record reasons for such rejection ; and

(*c*) before any order is passed under this sub-section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.]

(*3*) The [3][State] Government may, at any time, call for and examine the record of any order of, or the proceedings recorded by, any officer or person for the purpose of satisfying itself as to the legality or propriety of such order passed by, or as to the regularity of such proceedings of, such officer or person and may pass such order in reference thereto as it thinks fit.

24. The [3][State] Government may, by rules made in this behalf, exempt any class of traders from all or any of the provisions of this Act. **Power of Government to exempt certain traders from the Act.**

25. (*1*) The [3][State] Government may, for the purposes of carrying out the provisions of this Act, make rules. **Power to make rules.**

(*2*) In particular and without prejudice to the generality of the foregoing provision, the [3][State] Government may make rules for the following matters :—

(*a*) the stage at which, the rate [4][or rates] and the time at which and the manner in which the tax shall be levied and collected under section 3 ;

(*b*) the conditions subject to which a wholesale trader shall be entitled to refund under section 5 ;

(*c*) the form and conditions of the licence under section 7 and the fee for the grant or renewal thereof ;

(*d*) the form of accounts to be maintained, and of statements to be submitted and the periods at which such statements are to be submitted under section 10 ;

(*e*) the conditions subject to which a licence may be suspended or cancelled under section 13 ;

(*f*) the rank of officer empowered to investigate offences to be prescribed under section 16 ; [5]*

[6][(*fa*) the manner in which, and the authority to which, appeals against any order under this Act may be preferred under section 23 ;

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[1] These words, brackets and letter were substituted for the word, brackets and figure "sub-section (*3*)", by Bom. 50 of 1950, s. 5 (*2*).
[2] This sub-section was inserted, *ibid*, s. 5 (*3*).
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] These words were inserted by Bom. 50 of 1950, s. 6.
[5] The word "and" was deleted, *ibid*.
[6] Clauses (*fa*) and (*fb*) were inserted, *ibid*.

(*fb*) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under section 23 ;]

(*g*) the conditions subject to which any class of traders shall be exempted from all or any of the provisions of this Act under section 24.

(*3*) Any rule made under this section may provide that any person contravening any such rule shall be liable on conviction [1][to be punished with a fine which may extend to Rs. 1,000 and in the case of a continuing contravention with an additional fine which may extend to Rs. 50 for every day during which such contravention continues after conviction for the first such contravention].

(*4*) Rules made under this section shall be subject to the condition of previous publication and shall be published in the *Official Gazette*.

Licence fee and other dues to be recoverable as arrears of land revenue.

26. All sums payable as taxes, fees or penalties under section 3 or 7 shall be recoverable as arrears of land revenue.

Transitional provisions.

27. Notwithstanding the repeal of the Bombay Sales Tax Act, 1939,— Bom. V of 1939.

(*a*) such repeal shall not affect the liability of any person to pay any sum due from him under the said Act or any right acquired or the validity or invalidity of anything already done thereunder ; and

(*b*) all proceedings commenced, officers empowered or authorised, all powers conferred, rules made and orders issued under any of the provisions of the Bombay Sales Tax Act, 1939, shall be continued, and, so far as may be, be deemed to have been respectively commenced, empowered or authorised, conferred, made or issued under this Act. Bom. V of 1939.

[1] This portion was substituted for the words and figures " to a fine which may extend to Rs. 50 " by Bom. 13 of 1952. s. 9.

THE INDIAN ELECTRICITY (BOMBAY AMENDMENT) ACT, 1946.

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PREAMBLE.

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BOMBAY ACT No. XVIII OF 1946.[1]

[THE INDIAN ELECTRICITY (BOMBAY AMENDMENT) ACT, 1946.]

[*30th September 1946.*]

An Act to amend the Indian Electricity Act, 1910, in its application to the Province of Bombay.

WHEREAS it is expedient to amend the Indian Electricity Act, 1910, in its application to the Province of Bombay for the purposes hereinafter appearing; It is hereby enacted as follows :—

IX of 1910.

1. This Act may be called the Indian Electricity (Bombay Amendment) Act, 1946. Short title.

2. To clause (*d*) of section 5 and sub-section (*2*) of section 7 of the Indian Electricity Act, 1910, hereinafter called the said Act, in its application to the Province of Bombay, the following proviso shall be added, namely :— Amendment of sections 5 and 7 of Act IX of 1910.

IX of 1910.

"Provided that where the undertaking vests in the Provincial Government under the provisions of section 7-A for the purposes of valuation, the time of such vesting shall be deemed to be the time of purchase."

3. After section 7 of the said Act, the following new section shall be inserted namely :— Insertion of new section 7-A in Act IX of 1910.

"7-A. (*1*) Notwithstanding anything contained in any law for the time being in force, the Provincial Government may,— Provincial Government may take possession and control of undertaking before purchase is effected.

(*a*) when it elects under clause (*d*) of section 5 to purchase an undertaking, or

(*b*) if it elects under sub-section (*2*) of section 7 to purchase an undertaking, on the expiry of the period of notice required to be given under sub-section (*4*) thereof

pending the purchase of the undertaking, at any time by order require the licensee to deliver possession of such undertaking to such officer as the Provincial Government may appoint in that behalf on or before such day as may be specified in the order, and the licensee shall comply with such order. On failure of the licensee to comply with such order, the Provincial Government may forthwith enter into possession of such undertaking.

(*2*) On the date of compliance with the order, or the day specified therein which ever is earlier the provisions of clause (*e*) of section 5 or sub-section (*3*) of section 7, as the case may be, shall, without prejudice to the right of the licensee to payment of the value of the undertaking, apply to such undertaking as if the purchase had been effected."

4. In section 42 of the said Act, clauses (*a*), (*b*) and (*c*) shall be re-lettered as "(*b*)", "(*c*)" and "(*d*)" respectively and before clause (*b*) as so relettered the following new clause shall be inserted, namely :— Amendment of section 42 of Act IX of 1910.

"(*a*) fails to comply with a requisition under section 7-A; or"

5. Where the Provincial Government has before the coming into force of this Act taken possession of any undertaking pending the purchase thereof by it under the said Act, such possession shall be deemed to have been taken in pursuance of an order issued under section 7-A of the said Act. Possession taken before the coming into force of this Act deemed to be possession taken under new section 7-A.

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 59; for Proceedings in Assembly; *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

The Bombay Electricity (Surcharge) Act, 1946 (Bom. XIX of 1946), at pages 2285–2288 has ceased to be in force with effect from 30th September 1949.

THE BOMBAY ELECTRICITY (SPECIAL POWERS) ACT, 1946.

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8. Penalties.
8A. Power of entry, etc.
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BOMBAY ACT No. XX OF 1946.[1]

[THE BOMBAY ELECTRICITY (SPECIAL POWERS) ACT, 1946.]

[*30th September 1946*]

Amended by Bom. 41 of 1949.

Adapted and modified by the Adaptation of Laws Order, 1950.

An Act [2][to make special provisions for controlling] the supply, consumption, distribution and use of electrical energy in the Province of Bombay.

WHEREAS it is expedient [2][to make special provisions for controlling] the supply consumption, distribution and use of electrical energy in the Province of Bombay; It is hereby enacted as follows:—

Short title, extent [6][and commencement.]

1. (*1*) This Act may be called the Bombay Electricity ([3][Special] Powers) Act, 1946.

(*2*) It extends to the whole of the [4][State] of Bombay.

(*3*) It shall come into force on the 1st day of October 1946.

[5]* * * * * *

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context,—

IX of 1910. (*a*) "consumer" [7]* and "works" have the meanings assigned to them in section 2 of the Indian Electricity Act, 1910;

IX of 1910. [8][(*aa*) "licencee" means any person licensed under Part II of the Indian Electricity Act, 1910, to supply electrical energy or any person who has obtained sanction under section 28 of that Act to engage in the business of supplying electrical energy and includes a distributing licensee and the [9][State] Electricity Board constituted under section 5 of the Electricity (Supply) Act, 1948;]

LIV 1948.

IX of 1910. (*b*) "requisition" means a requisition made under the Indian Electricity Act, 1910, for the supply of electrical energy.

Restriction on consumption of supply.

3. Nothwithstanding anything contained in any contract or agreement, the [9][State] Government may by an order in writing require any consumer to, and thereupon such consumer shall, reduce his consumption of electrical energy to such extent and in such manner and by such means as may be specified in the order. The [9][State] Government shall serve a copy of the order on the licensee supplying the energy.

Discontinuance of supply in certain circumstances.

IX of 1910. **4.** (*1*) Notwithstanding anything contained in the Indian Electricity Act, 1910, or any licence granted thereunder or any agreement for the supply of electrical energy, the [9][State] Government may, if in its opinion it is necessary or expedient

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[1] For Statement of Objects and Reasons *see Bombay Government Gazette*, 1946, Pt. V, page 122; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

[2] These words were substituted for the words "to provide for the continuance of the powers to control" by Bom. 41 of 1949, s. 2.

[3] This word was substituted for the word "Emergency", *ibid*, s. 3 (*1*).

[4] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[5] Sub-section (*4*) was deleted, by Bom. 41 of 1949, s. 3 (*2*).

[6] These words were substituted for the words "commencement and duration", *ibid*, s. 3 (*3*).

[7] The word "licensee" was deleted, *ibid*, s. 4 (*1*).

[8] This clause was inserted, *ibid*, s. 4 (*2*).

[9] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

for maintining the supply or securing the equitable distribution of electrical energy, by an order in writing—

(*i*) authorise, or

(*ii*) require

a licensee to, and the licensee when so required shall, discontinue or reduce the supply of electrical energy to any consumer, other than a distributing licensee, who—

(*a*) without the permission of the [1][State] Government contravenes any direction issued to him under section 3 ; or

(*b*) without the permission of the [1][State] Government—

(*i*) exceeds at any time the maximum demand in kw. of electrical energy recorded in respect of him during the twelve months ending the 31st January 1943, or

(*ii*) connects or has connected load beyond that notified in writing to the licensee up to the 31st January 1943 [2][; or

(*c*) within three months, after the service on him by the licensee of a notice in writing in this behalf, does not utilise any electrical energy.]

(*2*) The licensee shall—

(*i*) before discontinuing or reducing the supply of electrical energy under sub-section (*1*) give the consumer not less than 48 hours' notice in writing of his intention so to do ;

(*ii*) on discontinuing the supply, communicate to the [1][State] Government within twenty-four hours from the date of discontinuance the circumstances in which he has done so ;

(*iii*) on being so directed by the [1][State] Government recommence the supply with all possible speed.

(*3*) The licensee shall report to the [1][State] Government within twenty-four hours of its coming to his notice every contravention of any direction given under section 3, or clause (*b*) of sub-section (*1*).

Restriction on supply of electrical energy and prohibition on reconnection of supply.

5. (*1*) Nothwithstanding anything contained in the Indian Electricity Act, 1910, or in any licence granted thereunder or in any contract or agreement or in any requisition, the [1][State] Government may, if in its opinion, it is necessary or expedient for maintaining the supply or securing the equitable distribution of electrical energy, by order direct a licensee— IX of 1910.

(*a*) not to comply, except with the permission of the [1][State] Government, with—

(*i*) the provisions of any contract, agreement or requisition (whether made before or after the commencement of this Act), for the supply (other than the resumption of a supply) or an increase in the supply, of electrical energy to any person,

(*ii*) any requisition or the resumption of a supply to a consumer after a period of six months from the date of its discontinuance,

(*iii*) any requisition for the resumption of a supply made within six months of its discontinuance, where the requsitioning consumer was not himself the consumer of the supply at the time of its discontinuance :

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[1] This word was substituted for the word " Provincial " by the Adaptation of Laws Order, 1950.
[2] This portion was inserted by Bom. 41 of 1949, s. 5.

[1][Provided that the [2][State] Government may by order direct that it shall not be necessary to obtain such permission if the licensee supplies electrical energy to such consumers or class of consumers, to such extent and subject to such conditions as may be specified in the order;]

(*b*) not to comply with any requisition for municipal purposes involving (otherwise than by way of replacement) any new works or additions to or alterations of works already installed.

(*2*) To obtain any permission required under sub-section (*1*), the licensee shall make an application to the [2][State] Government in such form as the [2][State] Government may notify in the *Official Gazette* in this behalf.

[3][Where a requisition is made on the licensee under sub-clause (*1*) of clause V or of clause VI of the Schedule to the Indian Electricity Act, 1910, the licensee shall make the application to the [2][State] Government in respect of such requisition within one month from the date of the receipt of the requisition by him or within such longer period as the [2][State] Government may allow.]

IX of 1910.

(*3*) On an application being made under sub-section (*2*) the [2][State] Government may either refuse the permission sought or grant it either absolutely or subject to such conditions as it may think fit to impose, and may also call for such further particulars relating to the application as it may require.

Restriction on the use of electrical energy for the purpose of advertisement.

6. Notwithstanding anything contained in any contract or agreement, no person receiving a supply of electrical energy from a licensee notified in this behalf in the *Official Gazette* by the [2][State] Government, shall use or cause to be used such electrical energy in the area of supply of such licensee for exhibiting light intended for advertisement on the exterior of any premises, or on any plot of land or in any street or open place.

Power to regulate supply of electrical energy and periods of work in undertakings.

[4][**6A.** (*1*) Notwithstanding anything contained in any law for the time being in force, or any permission granted under sub-section (*3*) of section 5 or any instrument having effect by virtue of any law, the [2][State] Government may with a view to controlling distribution, supply, consumption or use of electrical energy make an order—

(*a*) for prohibiting or regulating subject to such conditions as it may specify in the order, the distribution or supply of electrical energy by a licensee or use of such energy by a consumer for any purposes specified in such order;

(*b*) for deterermining the order of priority in which, or the period or periods during which, work shall be done by an undertaking to which the supply of electrical during energy is made by a licensee.

(*2*) The [2][State] Government may make provisions in any order made under sub-section (*1*) for any incidental or supplementary matters which it may think necessary or expedient for the purposes of the order.

Explanation.—In this section "undertaking" means any public utility undertaking or any undertaking by way of any trade or business and includes a factory.]

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[1] This proviso was added by Bom. 41 of 1949, s. 6 (*1*).
[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[3] This portion was added, by Bom. 41 of 1949, s. 6 (*2*).
[4] Sections 6A, 6B and 6C were inserted, *ibid*, s. 7.

Revocation of licence or discontinuance of supply for breach of order under section 6A.

[1][**6B.** Notwithstanding anything contained in the Indian Electricity Act, 1910, IX of 1910. or the terms of any licence or sanction granted thereunder or an agreement for the supply of electrical energy—

(*a*) if a licensee contravenes an order made under section 6A, it shall be lawful for the [2][State] Government to revoke the licence or sanction granted to such licensee for the supply of electrical energy; or

(*b*) if any undertaking contravenes an order made under section 6A, the [2][State] Government may by order direct the licensee to discontinue or reduce the supply of electrical energy made to such undertaking and the licensee shall thereupon discontinue or reduce the supply to electrical energy to such undertaking.]

Discontinuance of supply of energy to consumer for failure to pay fees for services of Electric Inspector or his assistants.

[1][**6C.** (*1*) If any consumer fails to pay any fees leviable for inspection, examination or test made or any other service rendered by an Electric Inspector or any other officer appointed to assist the Electric Inspector under the provisions the Indian Electricity Act, 1910, or any rules made thereunder, within ten days from IX of the date of the presentation of the bill for such inspection, examination, test of 1910. rendering of service, the [2][State] Government or any other officer authorized by the [2][State] Government in that behalf may, notwithstanding anything contained in the Indian Electricity Act, 1910, or the terms of any licence or sanction granted IX of thereunder or any agreement for the supply of electrical energy, by order in writing 1910. direct the licensee, without prejudice to any other right to recover such fees, to discontinue the supply of electrical energy to such consumer and the licensee shall thereupon discontinue the supply of electrical energy to such consumer.

(*2*) On payment of such fees by the consumer, the [2][State] Government or the authorized officer may by order in writing direct the licensee to reconnect and recommence the supply of electrical energy, and the licensee shall thereupon reconnect and recommence the supply to the consumer as soon as practicable:

Provided that the licensee shall not be bound to reconnect the supply until the consumer pays to the licensee the charges for reconnecting the supply.]

Continuance in force of existing Orders.

7. Every order made by the Central or Provincial Government under sub-rule (*2*) of rule 81 of the Defence of India Rules in respect of any of the matters specified in sections 3, 4, 5 and 6 of this Act and in force immediately before the commencement of this Act shall, so far as it could validly be made by the [2][State] Government under the said sections, continue in force and be deemed to have been made under the said sections, and every person authorised, permitted, directed or required to do anything under or in pursuance of any such order shall, so far as he could validly be so authorised, permitted, directed or required, as the case may be, by the [2][State] Government under any of the said sections of this Act, be deemed to have been so authorised, permitted, directed or required, as the case may be, under the provisions of this Act.

Penalties.

8. Any person who—

(*a*) contravenes—

(*i*) any order made or deemed to have been made under sections 3, 4, 5 [3][, 6, 6A, 6B or 6C]; or

(*ii*) any of the provisions of this Act; or

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[1] Sections 6A, 6B and 6C were inserted by Bom. 41 of 1949, s. 7.

[2] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[3] These figures, letters and word were substituted for the word and figure "or 6", by Bom. 41 of 1949, s. 8 (*1*).

(*b*) is deemed to have been required or directed under section 3, 4, 5 or 6 to do or refrain from doing anything fails to comply with such requirement or direction,

shall, on conviction, be [1][punished] with imprisonment for a term which may extend to six months or with fine or with both.

[2][**8A.** (*1*) Any officer authorized by the Provincial Government in this behalf, by general or special order, may enter and inspect any premises for the purpose of verifying whether an order made under this Act is complied with or not. Power of entry, etc.

(*2*) Whoever voluntarily obstructs any person authorized under sub-section (*1*) in the exercise of the powers conferred by that sub-section shall, on conviction, be punished with imprisonment for a term which may extend to three months or with fine which may extend to five hundred rupees or with both.]

[3][**9.** If the person referred to in section 8 is a local authority, its Chief Executive Officer in charge of the undertaking of supplying electrical energy and if such person is a company or other body corporate, the managing director, manager, secretary or other principal officer managing its business shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.] Offence by local authorities and corporations.

10. No Court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by such public servant as may be authorised by the Provincial Government in this behalf. Cognizance of offences.

11. (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order, direction or requirement made or deemed to have been made under section 3, 4, 5 [4][, 6, 6A, 6B or 6C]. Protection of action taken under Act.

(*2*) No suit or other legal proceeding shall lie against the Crown for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order [5][, direction or requirement] made or deemed to have been made under section 3, 4, 5 [4][, 6; 6A, 6B or 6C].

12. Every order or direction made or issued under this Act shall, as far as may be, be served in the manner prescribed in section 53 of the Indian Electricity Act, 1910. Service of orders or directions.

IX of 1910

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[1] This word was substituted for the word "punishable" by Bom. 41 of 1949, s. 8 (*2*).

[2] This section was inserted, *ibid*, s. 9.

[3] This section was substituted for the original, *ibid*, s. 10.

[4] These figures, letters and word were substituted for the word and figure "or 6", *ibid*, s. 11.

[5] These words were inserted, *ibid*.

THE BOMBAY SPECIAL TRIBUNAL (CONTINUANCE) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Definitions.
3. Tribunal's jurisdiction to try Bombay Cases.

SCHEDULE.

BOMBAY ACT No. XXI OF 1946.[1]

[THE BOMBAY SPECIAL TRIBUNAL (CONTINUANCE) ACT, 1946.]

[*30th September 1946.*]

An Act to provide for the continuance of jurisdiction and powers in respect of certain Bombay cases pending before the Second Special Tribunal at Lahore constituted under the Criminal Law Amendment Ordinance, 1943.

Ordinance No. XXIX of 1943.

WHEREAS by a notification of the Central Government under section 3 of the Criminal Law Amendment Ordinance, 1943, a Special Tribunal known as the Second Special Tribunal at Lahore was constituted, and by a notification under section 5 thereof, the two cases specified in the Schedule to this Act were allotted to it for trial;

AND WHEREAS the said cases would, but for the promulgation of the said Ordinance and the issue of the said notifications, have been triable by a court in the Province of Bombay:

AND WHEREAS upon the expiration of a period of six months after the Proclamation of Emergency in force at the commencement of the said Ordinance has ceased to operate, doubts may arise as to the competency of the said Tribunal to continue to function and dispose of the said cases in the event of their not being disposed of before the expiration of the said period;

AND WHEREAS it is necessary that the said Tribunal should so continue to function and dispose of the said cases:

IT IS HEREBY enacted as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Bombay Special Tribunal (Continuance) Act, 1946.

(*2*) It shall come in o force on the 1st day of October 1946.

Definitions.

2. In this Act,—

Ordinance No. XXIX of 1943.

(*a*) "the Ordinance" means the Criminal Law Amendment Ordinance, 1943;

(*b*) "the Tribunal" means the Special Tribunal known as the Second Special Tribunal at Lahore constituted by notification of the Central Government under section 3 of the Ordinance.

Tribunal's jurisdiction to try Bombay cases.

3. (*1*) The Tribunal shall have jurisdiction to try the cases specified in the Schedule to this Act as if it had been constituted by an Act of the Provincial Legislature.

(*2*) All provisions of the Ordinance, except sections 1 and 3 and sub-section (*1*) of section 5, shall continue in force and, so far as may be, apply in relation to the Tribunal and the cases aforesaid, subject to the modification that the powers of the Central Government under sub-section (*3*) of section 4 and section 11 shall, as from the commencement of this Act, be powers of the Provincial Government.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V. page 214; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX: and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

(*3*) The Tribunal shall sit at Bombay :

Provided that the Provincial Government may direct that the Tribunal shall sit at any other place in the Province of Bombay.

(*4*) All notifications issued, and all appointments and all rules made, by the Central Government under section 3, sub-section (*3*) of section 4 and section 11, respectively, of the Ordinance shall, so far as they apply to the Tribunal, continue in force until superseded or modified by the Provincial Government under this Act.

(*5*) For the avoidance of doubt it is hereby declared that all proceedings had before, and all orders issued by, the Tribunal under the Ordinance before the commencement of this Act shall continue to have effect, and it shall not be necessary for the Tribunal to recommence any of the said proceedings or re-issue any of the said orders.

SCHEDULE.

[*See* section 3 (*1*).]

Serial No.	Name of the accused person or persons.	Offences charged against the accused.
1.	(1) Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower. Cawnpore. (2) Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore. (3) Kailashpat Singhania, Kamla Tower, Cawnpore. (4) B. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore. (5) S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clause 2 of the Iron and Steel (Movement by Rail) Order, 1942.
2.	(1) Juggilal Kamlapat Gas Plant Manufacturing Company Ltd., Rampur, through Kailashpat Singhania, Kamla Tower, Cawnpore. (2) Juggilal Kamlapat (Rampur) Ltd., through Kailashpat Singhania, Kamla Tower, Cawnpore. (3) Kailashpat Singhania, Kamla Tower, Cawnpore. (4) B. B. Mathur, Bandi Bilas, Arya Nagar, Cawnpore. (5) S. K. Seth, Manager, Juggilal Kamlapat Gas Plant Manufacturing Company (Rampur) Ltd., Kamla Tower, Cawnpore.	Rule 81 (4) of the Defence of India Rules read with Clauses 5 and 8 of the Iron and Steel (Control of Production and Distribution) Order, 1941.

THE BOMBAY ESSENTIAL COMMODITIES AND CATTLE (CONTROL) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short Title, extent, commencement and duration.
2. Definitions.
3. Amendment of Schedules.
4. Powers to control production, supply, distribution, etc.
5. Continuation of orders, etc., issued under Defence of India Rules.
6. Publication and service of orders.
7. Effect of orders inconsistent with other enactments.
8. Delegation of powers.
9. Ordinary avocations of life to be interfered with as little as possible.
10. Penalties.
11. Attempts etc., to contravene orders.
12. Offences by corporations.
13. Cognizance of offences.
14. Power to try offences summarily.
15. Protection of action taken under Act.
16. Rules.

SCHEDULES I and II.

BOMBAY ACT No. XXII OF 1946.[1]

[THE BOMBAY ESSENTIAL COMMODITIES AND CATTLE (CONTROL) ACT, 1946.]

[*30th September 1946*]

Amended by Bom. 7 of 1948.
" " " 47 of 1948.
Adapted and modified by the Adaptation of Laws Order, 1950.
Amended by Bom. 30 of 1950.
" " " 37 of 1951.
" " " 23 of 1952.
" " " 43 of 1954.

An Act to provide for the control and regulation of the production, movement, supply and distribution of, trade and commerce in, essential commodities, and the maintenance and movement of cattle.

WHEREAS it is expedient to provide for the control and regulation of the production, movement, supply and distribution of certain commodities essential to the life of the community, and for the control and regulation of trade and commerce therein, and for the maintenance, licensing and movement of cattle, and the licensing of dealers in such commodities and cattle, and for certain other purposes; It is hereby enacted as follows:—

Short title, extent, commencement and duration.

1. (*1*) This Act may be called the Bombay Essential Commodities and Cattle (Control) Act, 1946.

(*2*) It extends to the whole of the [2][State] of Bombay.

(*3*) It shall come into force on the first day of October 1946.

(*4*) It shall remain in force for a period of [3][eleven] years.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*1*) "cattle" means any of the animals specified in Schedule II;

(*2*) "essential commodity" means a commodity specified in Schedule I;

(*3*) "notified order" means an order notified in the *Official Gazette*.

Amendment of schedules.

3. The [4][State] Government may, by notification in the *Official Gazette*, direct additions to or omissions from either schedule whether generally or with reference to any particular area specified in the notification, and the schedule shall on the issue of the notification be deemed to be amended accordingly.

Powers to control production, supply, distribution, etc.

4. (*1*) The [4][State] Government, so far as it appears to it to be necessary or expedient for maintaining or increasing the supply or for securing the equitable distribution and availability at fair prices, of any essential commodity or cattle may, by [5][order] provide for—

(*a*) regulating or prohibiting the production, supply and distribution of, or trade and commerce in such essential commodity;

(*b*) regulating the maintenance, supply and distribution of, or trade and commerce in, cattle.

(*2*) Without prejudice to the generality of the powers conferred by sub-section (*1*) an order made thereunder may provide—

(*a*) for regulating by licence, permit or otherwise the production or manufacture of any essential commodity;

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, pages 223-224; and for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "eight" by Bom. 43 of 1954, s. 2.

[4] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.

[5] This word was substituted for the words "notified order" by Bom. 37 of 1951, s. 2.

(*b*) for regulating by licence, permit or otherwise the storage, movement, transport, distribution, disposal, acquisition, use or consumption of any essential commodity;

(*c*) for prohibiting the withholding from sale of any essential commodity ordinarily kept for sale;

(*d*) for requiring any person holding stocks of an essential commodity to sell them at specified prices to a specified person or class of persons or in specified circumstances;

(*e*) for collecting any information or statistics with a view to regulating or prohibiting any of the aforesaid matters;

(*f*) for controlling the prices at which any essential commodity or cattle may be brought or sold;

(*g*) for regulating by licence, permit or otherwise the movement, transport, distribution, disposal, acquisition, use and keeping of cattle;

(*h*) for requiring persons engaged in the production, supply or distribution of, trade or commerce in, any essential commodity or cattle—

(*i*) to maintain,

(*ii*) to produce for inspection,

any books, accounts and records, relating to their business, and to furnish any information relating to such business;

(*i*) for requiring owners as well as persons-in-charge of milch cattle, and dealers in milk—

(*i*) to maintain,

(*ii*) to produce for inspection,

any books, accounts and records relating to the production of milk and the number of cattle owned, controlled and maintained by them;

(*j*) for any incidental and supplementary matters, including in particular the entering and search of premises, vehicles and vessels, the seizure by a person authorised to make such search of any articles in respect of which such person has reason to believe that a contravention of the order has been, is being or is about to be committed [1][and of any vehicle, vessel or animal which he has reason to believe has been, is being or is about to be used for carrying such articles,] the grant or issue of licences, permits or other documents, and the charging of fees therefor.

Continuation of orders, etc., issued under Defence of India Rules.

5. Every order made under the Defence of India Rules, in respect of any essential commodity or cattle, and every appointment made, licence granted, permit issued and direction given in respect of the same under the said rules or such order, and which was in force immediately before the commencement of this Act, shall in so far as it could validly have been made, granted, issued or given as the case may be, under the provisions of this Act, be deemed to have been made, granted, issued or given thereunder.

Publication and service of orders.

6. (*1*) Every order made under section 4 shall—

(*a*) if it is an order of a general nature or affecting a class of persons, be published [2][in the *Official Gazette*];

(*b*) if it is an order affecting an individual corporation or firm, be served in the manner provided for the service of a summons in Rule 2 of Order XXIX or Rule 3 of Order XXX, as the case may be, in the First Schedule of the Code of Civil Procedure, 1908; V of 1908.

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[1] These words were inserted by Bom. 7 of 1948, s. 2.

[2] These words were substituted for the words "in the manner prescribed by rules made in this behalf" by Bom. 37 of 1951, s. 3.

(*c*) if it is an order affecting an individual person other than a corporation or firm, be served on the person—

(*i*) personally, by delivering or tendering to him the order, or

(*ii*) by post, or

(*iii*) where the person cannot be found, by leaving an authentic copy of the order with some adult male member of his family or by affixing such copy to some conspicuous part of the premises in which he is known to have last resided or carried on business or worked for gain.

(*2*) Where a question arises whether a person was duly informed of an order made in pursuance of section 4, compliance with the requirements of sub-section (*1*) shall be conclusive proof that he was so informed; but failure to comply with the said requirements shall not preclude proof by other means that he was so informed or affect the validity of the order.

Effect of orders inconsistent with other enactments.

7. Any order made or deemed to be made under section 4 shall have effect notwithstanding anything inconsistent therewith contained in any enactment other than this Act or any instrument having effect by virtue of any enactment other than this Act.

Delegation of powers.

8. The [1][State] Government may by notified order direct that the power to make orders under section 4 shall be also exercisable by such officer or authority and in relation to such matters and subject to such conditions, if any, as may be specified in the order.

Ordinary avocations of life to be interfered with as little as possible.

9. Any authority or person acting in pursuance of this Act shall interfere with the ordinary avocations of life and the enjoyment of property as little as may be consonant with the interest of the [2][State].

Penalties.

10. (*1*) If any person contravenes any order made or deemed to be made under section 4 he shall be punishable with imprisonment for a term which may extend to three years and shall also be liable to fine.

(*2*) Any Court trying such contravention may direct that any property in respect of which the Court is satisfied that the order has been contravened [3][and any vehicle, vessel or animal which the Court is satisfied has been used with the knowledge of the person having the control thereof for carrying such property] shall be forfeited to [4][Government].

Attempts etc. to contravene orders.

11. Any person who attempts to contravene, or abets a contravention of, any order made or deemed to be made under section 4, shall be deemed to have contravened that order.

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[1] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[2] This word was substituted for the word "Province", *ibid.*
[3] These words were inserted by Bom. 7 of 1948, s. 2.
[4] This word was substituted for the words "His Majesty" by the Adaptation of Laws Order, 1950.

Offences by corporations.

12. If the person contravening an order made or deemed to be made under section 4 is a company or other body corporate, every director, manager, secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

Cognizance of offences.

13. No court shall take cognizance of any offence punishable under this Act, except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code. XLV of 1860.

Power to try offences summarily.

14. Any Magistrate or bench of magistrates empowered for the time being to try in a summary way the offences specified in sub-section (*1*) of section 260 of the Code of Criminal Procedure, 1898, may, on application in this behalf being made by the prosecution, try in accordance with the provisions contained in sections 262 to 265 of the said Code any offence punishable under this Act. V of 1898.

Protection of action taken under Act.

15. (*1*) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under section 4.

(*2*) No suit or other legal proceeding shall lie against the [1][Government] for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of any order made or deemed to be made under section 4.

Rules.

16. [2]* The [3][State] Government may, by notification in the *Official Gazette*, and subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

[4]* * * * * * *

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[1] This word was substituted for the word "Crown" by the Adaptation of Laws Order, 1950.
[2] The brackets and figure "(*1*)" were deleted by Bom. 37 of 1951, s. 4.
[3] This word was substituted for the word "Provincial" by the Adaptation of Laws Order, 1950.
[4] Sub-section (*2*) was deleted by Bom. 37 of 1951, s. 4.

SCHEDULE I.

Essential commodities.

[1][1. Bricks used for building purposes.]
[2]* *

[1][3. Charcoal excluding coke.]
[3]4. Firewood.
[2]* *
[4]* *
[4]* *
[2]* *

[4]* *

10. Mowra seeds and Mawra Oil ;
[4]* * *
[4]* * *
[4]* * *
[5]* *
[4]* *
[4]* *
[4]* *
[6]* *
[4]* *

[7][22. Molasses.]
[8][Ammonia Sulphate.]
[9][24. Foodstuffs other than salt, sugar, vanaspati and vegetable oils.

SCHEDULE II.

Cattle.

1. Bulls.
2. Bullocks.
3. Cows.
4. Heifers.
5. Calves.
6. Buffaloes.
7. Goats.
8. Sheep.

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[1] These entries were substituted for the original by Bom. 43 of 1954, s.3 (*1*).

[2] The following essential commodities were deleted by Bom. 23 of 1952, s.3, namely :—

"2. Cattle feed of all kinds, including cotton-seed, hay, kadbi, green grass, oil cakes, wheat bran gawar and other concentrates but excluding challa and chuni other than gram chuni.
5. Milk.
8. Cotton (whether ginned or unginned).
14. Rice husk ;"

The proviso to section 3 reads as under :—

"Provided that such deletion shall not affect the validity of any existing appointment made or deemed to have been made, order or direction issued or deemed to have been issued, licence or permit granted or deemed to have been granted or any pending proceeding commenced under the said Act with respect to control and regulation of the production, movement, supply and distribution of the aforesaid essential commodities and for the control and regulation of trade and commerce therein and any such appointment, order, direction, licence or permit shall continue in force until it is cancelled by a competent authority under any law for the time being in force and any such proceeding shall be disposed of as if the aforesaid essential commodities had not been deleted from the said Schedule."

[3] All the existing entries after entry "3 Charcoal" were deleted and entries 4 to 20 were added by G. N., C. S. D., No. 410/II-B, dated the 11th June 1949 :—

[4] The following entries were deleted by Bom. 43 of 1954, s.3 (*2*).

"6. Ready Made Clothing of all kinds.
7. Cement.
9. Gunnies and Twine.
11. Oil Engines.
12. Ready made Tea.
13. Ready Made Coffee.
15. Sand.
16. Tiles (Mangalore Pattern).
17. Asbestos cement sheets.
18. Timber.
19. Lime.
21. Drugs as defined in clause (*b*) of section 3 of the Drugs Act, 1940 (XXIII of 1940)."

[5] The entry "14. Rice Husk" was deleted by Bom. 23 of 1952, s. 3.

[6] The entry "20. Coke" was deleted by G. N., C. S. D., No. 410(*2*)II-B, dated the 7th March 1950.

[7] This entry was added by G. N., R. D., No. 3143/49, dated the 21st September 1950.

[8] This entry was added by G. N., C. S. D., No. 410/II-B, dated the 31st March 1952.

[9] This entry was added by G. N., C. S. D., 719/117/II-A dated the 24th January 1955.

THE AHMEDABAD AND SURAT MUNICIPAL ADMINISTRATION VALIDATING ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title and commencement.
2. Validation of acts of persons appointed under section 219 of Bom. XVIII of 1925.
3. Act to apply to pending suits and proceedings.
4. Repeal of Bom. III of 1946.

SCHEDULE.

BOMBAY ACT No. XXIII OF 1946.[1]

[THE AHMEDABAD AND SURAT MUNICIPAL ADMINISTRATION VALIDATING ACT, 1946.]

[*1st October 1946.*]

An Act to validate the acts of certain persons appointed by the Commissioner, Northern Division, to exercise the powers and perform the duties of the Borough Municipalities of Ahmedabad and Surat.

Bom. XVIII of 1925.

WHEREAS the Municipalities of Ahmedabad and Surat were superseded by the Provincial Government by orders made under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925 ;

AND WHEREAS the Commissioner, Northern Division, from time to time appointed certain persons to exercise and perform all powers and duties of the respective Municipalities during the period of their supersession ;

AND WHEREAS the orders made by the Provincial Government for the supersession of the said Municipalities and the appointments made by the Commissioner of the said persons were ineffectual and invalid ;

AND WHEREAS various acts have been done by the said persons in the purported exercise and performance of the said powers and duties during the period from the date of the said orders of supersession till the 8th February 1946 (both inclusive) ;

AND WHEREAS it was necessary and expedient to validate the said acts done by the said persons ;

Bom. III of 1946.

AND WHEREAS the Ahmedabad and Surat Municipal Administration Validating Act, 1946, was enacted for the said purpose ; but the names of certain persons, appointed by the Commissioner to exercise and perform the powers and duties of the Ahmedabad and Surat Municipalities during the period of their supersession, were not specified in column 3 of the Schedule to the said Act ;

AND WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is necessary to re-enact the said Act with certain modifications ; It is hereby enacted as follows :—

26 Geo. 5, Ch. 2.

Short title and commencement.

1. (*1*) This Act may be called the Ahmedabad and Surat Municipal Administration Validating Act, 1946.

(*2*) It shall come into force at once.

Validation of acts of persons appointed under section 219 of Bom. XVIII of 1925.

Bom. XVIII of 1925.

2. Notwithstanding that the orders specified in column 1 of the Schedule made by the Provincial Government under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925 (hereinafter referred to as the said Act), for the supersession of the Municipalities specified in column 2 of the said Schedule and the appointments of the persons specified in column 3 thereof made by the Commissioner, Northern Division, from time to time under clause (*b*) of sub-section (*2*) of section 219 of the said Act are ineffectual and invalid, all powers and duties of the respective Municipalities exercised and performed by the said persons during the period from the date of the said orders of supersession till the 8th February 1946 (both inclusive) shall be deemed to be and always to have been validly exercised and performed by the said persons ; and no acts done by the said persons during

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, p. 62 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

the said period shall be deemed to be invalid or called in question on the ground merely that the said orders of supersession and appointments were ineffectual and invalid; and the said persons are now hereby indemnified and discharged from liability in respect of such acts.

Act to apply to pending suits and proceedings.

3. The provisions of this Act shall apply notwithstanding the pendency of any suit or other proceeding in any Court of Law, either in a Court of first instance or in a Court of appeal, at the time when the Act comes into force.

Repeal of Bom. III 1946.

4. The Ahmedabad and Surat Municipal Administration Validating Act, 1946, Bom. III of 1946. is hereby repealed.

SCHEDULE.

Orders.	Municipalities.	Persons.
1	2	3
Government Order, General Department, No. 1707, dated the 3rd May 1944.	Surat Municipality ..	(*a*) Collector of Surat, Sole Administrator. (*b*) Committee of Management consisting of— 1. Rao Bahadur N. M. Jhaveri (Chairman). 2. Mr. Chhotubhai Gulabdas Vakil. 3. Mr. Kanchanlal Manchharam Khandwala. 4. Mr. Chandulal Maganlal Kapadia. 5. Mr. Jekisondas Jamnadas Rana. 6. Mr. Ratilal Shambhulal Reshamwala. 7. Mr. Mohamadbhai Esufali Badri. 8. Mr. Umarmiya Zenumia Kagzi. 9. Shifa-ul-Mulk Hakim Meer Sarfaraz Hussain, Meer Yawar Hussain. 10. Mr. Gulam Rasul Ahmed Shaikh. 11. Haji Mahmadbhai Abdullabhai Narielwala. 12. Mr. Abdul Kadar Mahmad Shaikh. 13. Mr. M. C. Benson. 14. Mr. Mithabhai Palji. 15. Sardar Sheriar B. Modi.
Government Order, General Department, No. 1825, dated the 3rd May 1944.	Ahmedabad Municipality.	(*a*) Diwan Bahadur M. S. Moulvi, Sole Administrator. (*b*) Committee of Management consisting of— 1. Diwan Bahadur M. S. Moulvi (Chairman). 2. Sir Mahbubmiya I. Kadri, Kt., O.B.E 3. Mr. Ahmedmia S. Shaikh. 4. Mr. Abdulla M. Yamani. 5. Mr. Mahmod Habib A. Valiullah. 6. Mr. Abdul Rehmankhan Risaldar. 7. Mr. Doulatram U. Shah. 8. Diwan Bahadur Ratilal J. Lakhia. 9. Rao Saheb Maneklal Chunilal Patel. 10. Mr. Champaklal C. Bhatt. 11. Mr. Karsondas M. Leuva. 12. Khan Bahadur Hormasji Pestonji Chahewala, O.B.E. (*c*) Committee of Management consisting of— 1. Diwan Bahadur M. S. Moulvi (Chairman). 2. Sir Mahbubmiya I. Kadri, Kt., O.B.E. 3. Mr. Ahmedmia S. Shaikh. 4. Mr. Abdulla M. Yamani. 5. Mr. Mahmod Habib A. Valiullah. 6. Mr. Abdul Rehmankhan Risaldar. 7. Mr. Doulatram U. Shah. 8. Diwan Bahadur Ratilal J. Lakhia. 9. Rao Saheb Nathalal Nanalal Dave. 10. Mr. Champaklal C. Bhatt. 11. Mr. Karsondas M. Leuva. 12. Khan Bahadur Hormasji Pestonji Chahewala, O.B.E.

2311–2314

The Bombay Prevention of Hindu Bigamous Marriages Act, 1946 (Bom. XXV of 1946) at pages 2311–2314 has been repealed by the Hindu Marriage Act, 1955 (XXV of 1955), section 30.

THE BOMBAY COTTON (STATISTICS) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Delivery of yearly returns of cotton.
4. Right of access, inspection and search.
5. Use of returns or information.
6. Restriction on publication of returns and information.
7. Penalties.
8. Penalty for improper disclosure of information or returns.
9. Cognisance of offences.
10. Protection for acts done in good faith.
11. Offence by corporation.
12. Exemptions.
13. Power to make rules.

BOMBAY ACT No. XXVII OF 1946.[1]

[THE BOMBAY COTTON (STATISTICS) ACT, 1946.]

[*18th November 1946*]

Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay.

WHEREAS it is expedient to facilitate the collection of statistics of stocks of Indian raw cotton in the Province; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Cotton (Statistics) Act, 1946.

(*2*) It extends to the whole of the [2][State].

(*3*) It shall come into force on such date as the [3][State] Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context:—

(*a*) "cotton" means Indian raw cotton (including seed-cotton, lint and fly);

(*b*) "Director" means the Director of Agriculture, [2][State] of Bombay;

(*c*) "owner" means the owner of a cotton ginning factory or a cotton pressing factory;

(*d*) "trader" means a person other than an owner, carrying on the business of buying or sellling cotton for the purposes of gain or profit and includes—

(*i*) a manufacturer, or

(*ii*) an importer,

who carries on such business,

(*iii*) a broker or commission agent who contracts for the sale or purchase of cotton for others and stocks cotton on their behalf;

(*e*) "year" means a year commencing on the 1st day of September;

(*f*) the expressions "cotton ginning factory" and "cotton pressing factory" have the meanings assigned to them by the Cotton Ginning and Pressing Factories Act, 1925.

XII 1925.

Delivery of yearly returns of cotton.

3. (*1*) Every trader and every owner shall on or before 15th September each year submit to the Director, through such officer as the [3][State] Government may by notification in the *Official Gazette* from time to time specifiy, a return in the prescribed form of the quantity of cotton in his possession on the last day of the previous year:

Provided that the [3][State] Government may, in any year by notification in the *Official Gazette*, fix any later date for the submission of returns.

(*2*) Every return submitted under sub-section (*1*) shall be signed by the person submitting it.

Right of access, inspection and search.

4. The Director and any person authorisedby him in writing in this behalf shall have access to every relevant document, book of account or other record in the possession of a trader or owner and may at any reasonable time with or without notice to the trader or owner, as the case may be, examine and take copies of, or extracts from, the document, book of account or record for the purpose of testing the accuracy of any return made under section 3. The Director and person so

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 67; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial", *ibid.*

authorised may ask any question and make any enquiry necessary for obtaining any information required for the aforesaid purpose and shall also have access to any premises where he has reason to believe that cotton is stocked.

Use of returns or information.

5. The Director may use returns made under section 3 and information obtained under section 4 for—

(*a*) compiling statistics required by the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923 ; XIV of 1923.

(*b*) such purposes in respect of the matters enumerated in List II of the Seventh Schedule to the [1][Constitution] as the [2][State] Government may direct.

Restriction on publication of returns and information.

6. (*1*) No return, and no part of any return, and no information obtained for the purposes of this Act shall, without the previous consent in writing of the trader or owner concerned, or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular cotton ginning or pressing factory or the business of a particular trader.

(*2*) Except for the purposes of a prosecution under this Act or under the Indian Penal Code, no person not connected with the checking of returns or the collection of information under this Act shall be permitted to see any return or information referred to in sub-section (*1*) XLV of 1860.

Penalties.

7. If any person—

(*a*) wilfully refuses or without lawful excuse neglects to deliver a return under section 3 , or

(*b*) wilfully delivers or causes to be delivered any such return which he knows to be false, or

(*c*) refuses to answer or wilfully gives a false answer to any question or enquiry necessary for obtaining any information for the purposes of this Act, or

(*d*) impedes the right of access to a relevant document, book of account or other record, or the right of entry conferred by section 4,

he shall for each such offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each day after the first during which the offence continues ; and in respect of a false return or answer the offence shall be deemed to continue until a true return or answer has been delivered or given.

Penalty for improper disclosure of information or returns.

8. Any person connected with the checking of returns or collection of information under this Act, who, otherwise than in the execution of his duties under this Act or for the purpose of the prosecution of an offence under this Act or under the Indian Penal Code, wilfully discloses any information given, or the contents of any return made, under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. XLV of 1860.

Cognisance of offences.

9. No prosecution under section 7 shall be instituted except by or with the previous sanction in writing of the Director, and no prosecution under section 8 shall be instituted except by or with the previous sanction in writing of the [2][State] Government.

Protection for acts done in good faith.

10. No suit or other legal proceedings shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

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[1] This word was substituted for the words and figures "Government of India Act, 1935" by the Adaptation of Laws Order, 1950.

[2] This word was substituted for the word "Provincial", *ibid.*

BOMBAY ACT No. XXIII OF 1946.[1]

[THE AHMEDABAD AND SURAT MUNICIPAL ADMINISTRATION VALIDATING ACT, 1946.]

[*1st October 1946.*]

An Act to validate the acts of certain persons appointed by the Commissioner, Northern Division, to exercise the powers and perform the duties of the Borough Municipalities of Ahmedabad and Surat.

Bom. XVIII of 1925.

WHEREAS the Municipalities of Ahmedabad and Surat were superseded by the Provincial Government by orders made under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925 ;

AND WHEREAS the Commissioner, Northern Division, from time to time appointed certain persons to exercise and perform all powers and duties of the respective Municipalities during the period of their supersession ;

AND WHEREAS the orders made by the Provincial Government for the supersession of the said Municipalities and the appointments made by the Commissioner of the said persons were ineffectual and invalid ;

AND WHEREAS various acts have been done by the said persons in the purported exercise and performance of the said powers and duties during the period from the date of the said orders of supersession till the 8th February 1946 (both inclusive) ;

AND WHEREAS it was necessary and expedient to validate the said acts done by the said persons ;

Bom. III of 1946.

AND WHEREAS the Ahmedabad and Surat Municipal Administration Validating Act, 1946, was enacted for the said purpose ; but the names of certain persons, appointed by the Commissioner to exercise and perform the powers and duties of the Ahmedabad and Surat Municipalities during the period of their supersession, were not specified in column 3 of the Schedule to the said Act ;

AND WHEREAS in view of the provisions of sub-section (*4*) of section 93 of the Government of India Act, 1935, it is necessary to re-enact the said Act with certain modifications ; It is hereby enacted as follows :—

26 Geo. 5, Ch. 2.

Short title and commencement.

1. (*1*) This Act may be called the Ahmedabad and Surat Municipal Administration Validating Act, 1946.

(*2*) It shall come into force at once.

Validation of acts of persons appointed under section 219 of Bom. XVIII of 1925.

Bom. XVIII of 1925.

2. Notwithstanding that the orders specified in column 1 of the Schedule made by the Provincial Government under sub-section (*1*) of section 219 of the Bombay Municipal Boroughs Act, 1925 (hereinafter referred to as the said Act), for the supersession of the Municipalities specified in column 2 of the said Schedule and the appointments of the persons specified in column 3 thereof made by the Commissioner, Northern Division, from time to time under clause (*b*) of sub-section (*2*) of section 219 of the said Act are ineffectual and invalid, all powers and duties of the respective Municipalities exercised and performed by the said persons during the period from the date of the said orders of supersession till the 8th February 1946 (both inclusive) shall be deemed to be and always to have been validly exercised and performed by the said persons ; and no acts done by the said persons during

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, p. 62 ; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

the said period shall be deemed to be invalid or called in question on the ground merely that the said orders of supersession and appointments were ineffectual and invalid; and the said persons are now hereby indemnified and discharged from liability in respect of such acts.

Act to apply to pending suits and proceedings.

3. The provisions of this Act shall apply notwithstanding the pendency of any suit or other proceeding in any Court of Law, either in a Court of first instance or in a Court of appeal, at the time when the Act comes into force.

Repeal of Bom. III 1946.

4. The Ahmedabad and Surat Municipal Administration Validating Act, 1946, Bom. III of 1946. is hereby repealed.

SCHEDULE.

Orders.	Municipalities.	Persons.
1	2	3
Government Order, General Department, No. 1707, dated the 3rd May 1944.	Surat Municipality ..	(*a*) Collector of Surat, Sole Administrator. (*b*) Committee of Management consisting of— 1. Rao Bahadur N. M. Jhaveri (Chairman). 2. Mr. Chhotubhai Gulabdas Vakil. 3. Mr. Kanchanlal Manchharam Khandwala. 4. Mr. Chandulal Maganlal Kapadia. 5. Mr. Jekisondas Jamnadas Rana. 6. Mr. Ratilal Shambhulal Reshamwala. 7. Mr. Mohamadbhai Esufali Badri. 8. Mr. Umarmiya Zenumia Kagzi. 9. Shifa-ul-Mulk Hakim Meer Sarfaraz Hussain, Meer Yawar Hussain. 10. Mr. Gulam Rasul Ahmed Shaikh. 11. Haji Mahmadbhai Abdullabhai Narielwala. 12. Mr. Abdul Kadar Mahmad Shaikh. 13. Mr. M. C. Benson. 14. Mr. Mithabhai Palji. 15. Sardar Sheriar B. Modi.
Government Order, General Department, No. 1825, dated the 3rd May 1944.	Ahmedabad Municipality.	(*a*) Diwan Bahadur M. S. Moulvi, Sole Administrator. (*b*) Committee of Management consisting of— 1. Diwan Bahadur M. S. Moulvi (Chairman). 2. Sir Mahbubmiya I. Kadri, Kt., O.B.E 3. Mr. Ahmedmia S. Shaikh. 4. Mr. Abdulla M. Yamani. 5. Mr. Mahmod Habib A. Valiullah. 6. Mr. Abdul Rehmankhan Risaldar. 7. Mr. Doulatram U. Shah. 8. Diwan Bahadur Ratilal J. Lakhia. 9. Rao Saheb Maneklal Chunilal Patel. 10. Mr. Champaklal C. Bhatt. 11. Mr. Karsondas M. Leuva. 12. Khan Bahadur Hormasji Pestonji Chahewala, O.B.E. (*c*) Committee of Management consisting of— 1. Diwan Bahadur M. S. Moulvi (Chairman). 2. Sir Mahbubmiya I. Kadri, Kt., O.B.E. 3. Mr. Ahmedmia S. Shaikh. 4. Mr. Abdulla M. Yamani. 5. Mr. Mahmod Habib A. Valiullah. 6. Mr. Abdul Rehmankhan Risaldar. 7. Mr. Doulatram U. Shah. 8. Diwan Bahadur Ratilal J. Lakhia. 9. Rao Saheb Nathalal Nanalal Dave. 10. Mr. Champaklal C. Bhatt. 11. Mr. Karsondas M. Leuva. 12. Khan Bahadur Hormasji Pestonji Chahewala, O.B.E.

The Bombay Prevention of Hindu Bigamous Marriages Act, 1946 (Bom. XXV of 1946) at pages 2311–2314 has been repealed by the Hindu Marriage Act, 1955 (XXV of 1955), section 30.

THE BOMBAY COTTON (STATISTICS) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Delivery of yearly returns of cotton.
4. Right of access, inspection and search.
5. Use of returns or information.
6. Restriction on publication of returns and information.
7. Penalties.
8. Penalty for improper disclosure of information or returns.
9. Cognisance of offences.
10. Protection for acts done in good faith.
11. Offence by corporation.
12. Exemptions.
13. Power to make rules.

BOMBAY ACT No. XXVII OF 1946.[1]

[THE BOMBAY COTTON (STATISTICS) ACT, 1946.]

[*18th November 1946*]

Adapted and modified by the Adaptation of Laws Order, 1950.

An Act to facilitate the collection of statistics of stocks of Indian raw cotton in the Province of Bombay.

WHEREAS it is expedient to facilitate the collection of statistics of stocks of Indian raw cotton in the Province; It is hereby enacted as follows:—

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Cotton (Statistics) Act, 1946.

(*2*) It extends to the whole of the [2][State].

(*3*) It shall come into force on such date as the [3][State] Government may, by notification in the *Official Gazette*, appoint.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context:—

(*a*) "cotton" means Indian raw cotton (including seed-cotton, lint and fly);

(*b*) "Director" means the Director of Agriculture, [2][State] of Bombay;

(*c*) "owner" means the owner of a cotton ginning factory or a cotton pressing factory;

(*d*) "trader" means a person other than an owner, carrying on the business of buying or sellling cotton for the purposes of gain or profit and includes—

(*i*) a manufacturer, or

(*ii*) an importer,

who carries on such business,

(*iii*) a broker or commission agent who contracts for the sale or purchase of cotton for others and stocks cotton on their behalf;

(*e*) "year" means a year commencing on the 1st day of September;

(*f*) the expressions "cotton ginning factory" and "cotton pressing factory" have the meanings assigned to them by the Cotton Ginning and Pressing Factories Act, 1925.

XII 1925.

Delivery of yearly returns of cotton.

3. (*1*) Every trader and every owner shall on or before 15th September each year submit to the Director, through such officer as the [3][State] Government may by notification in the *Official Gazette* from time to time specifiy, a return in the prescribed form of the quantity of cotton in his possession on the last day of the previous year:

Provided that the [3][State] Government may, in any year by notification in the *Official Gazette*, fix any later date for the submission of returns.

(*2*) Every return submitted under sub-section (*1*) shall be signed by the person submitting it.

Right of access, inspection and search.

4. The Director and any person authorisedby him in writing in this behalf shall have access to every relevant document, book of account or other record in the possession of a trader or owner and may at any reasonable time with or without notice to the trader or owner, as the case may be, examine and take copies of, or extracts from, the document, book of account or record for the purpose of testing the accuracy of any return made under section 3. The Director and person so

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 67; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

[2] This word was substituted for the word "Province" by the Adaptation of Laws Order, 1950.

[3] This word was substituted for the word "Provincial", *ibid.*

authorised may ask any question and make any enquiry necessary for obtaining any information required for the aforesaid purpose and shall also have access to any premises where he has reason to believe that cotton is stocked.

Use of returns or information.

5. The Director may use returns made under section 3 and information obtained under section 4 for—

(*a*) compiling statistics required by the Indian Central Cotton Committee constituted under the Indian Cotton Cess Act, 1923 ; XIV of 1923.

(*b*) such purposes in respect of the matters enumerated in List II of the Seventh Schedule to the [1][Constitution] as the [2][State] Government may direct.

Restriction on publication of returns and information.

6. (*1*) No return, and no part of any return, and no information obtained for the purposes of this Act shall, without the previous consent in writing of the trader or owner concerned, or his authorised agent, be published in such manner as would enable any particulars to be identified as referring to a particular cotton ginning or pressing factory or the business of a particular trader.

(*2*) Except for the purposes of a prosecution under this Act or under the Indian Penal Code, no person not connected with the checking of returns or the collection of information under this Act shall be permitted to see any return or information referred to in sub-section (*1*) XLV of 1860.

Penalties.

7. If any person—

(*a*) wilfully refuses or without lawful excuse neglects to deliver a return under section 3 , or

(*b*) wilfully delivers or causes to be delivered any such return which he knows to be false, or

(*c*) refuses to answer or wilfully gives a false answer to any question or enquiry necessary for obtaining any information for the purposes of this Act, or

(*d*) impedes the right of access to a relevant document, book of account or other record, or the right of entry conferred by section 4,

he shall for each such offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence to a further fine which may extend to two hundred rupees for each day after the first during which the offence continues ; and in respect of a false return or answer the offence shall be deemed to continue until a true return or answer has been delivered or given.

Penalty for improper disclosure of information or returns.

8. Any person connected with the checking of returns or collection of information under this Act, who, otherwise than in the execution of his duties under this Act or for the purpose of the prosecution of an offence under this Act or under the Indian Penal Code, wilfully discloses any information given, or the contents of any return made, under this Act shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both. XLV of 1860.

Cognisance of offences.

9. No prosecution under section 7 shall be instituted except by or with the previous sanction in writing of the Director, and no prosecution under section 8 shall be instituted except by or with the previous sanction in writing of the [2][State] Government.

Protection for acts done in good faith.

10. No suit or other legal proceedings shall be instituted against any person in respect of anything which is in good faith done or intended to be done under this Act.

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[1] This word was substituted for the words and figures "Government of India Act, 1935" by the Adaptation of Laws Order, 1950.

[2] This word was substituted for the word "Provincial", *ibid.*

11. If the person contravening any of the provisions of this Act is a company or other body corporate, the secretary, manager or other principal officer managing the affairs of such company or body, as the case may be, shall be deemed to be guilty of such contravention. Offence by corporation.

12. The Provincial Government may by general or special order exempt any trader or class of traders from the operation of this Act. Exemptions.

13. (*1*) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act. Power to make rules.

(*2*) Without prejudice to the generality of the foregoing powers, rules may be made under this section—

(*a*) prescribing the form in which a return under section 3 shall be delivered, and

(*b*) regulating the exercise of the right of access to books of account, records and documents and the right of entry conferred by section 4.

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THE PREVENTION OF CRUELTY TO ANIMALS, THE BOMBAY DISTRICT POLICE AND THE CITY OF BOMBAY POLICE (AMENDMENT) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title.
2. Repeal of amendments made by Bom. XIII of 1922, Bom. IX of 1923, Bom. XI of 1928 and Bom. III of 1933 in Act XI of 1890.
3. Amendment of section 6-B of Act XI of 1890.
4. Amendment of section 11 of Act XI of 1890.
5. Amendment of section 51A of Bom. IV of 1890—(*not printed.*)
6. Amendment of section 33 of Bom. IV of 1902—(*not printed.*)

BOMBAY ACT No. XXVIII OF 1946.[1]

[THE PREVENTION OF CRUELTY TO ANIMALS, THE BOMBAY DISTRICT POLICE AND THE CITY OF BOMBAY POLICE (AMENDMENT) ACT, 1946.]

[*20th November 1946.*]

An Act to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902.

XI of 1890. Bom. IV of 1890. Bom. IV of 1902. WHEREAS it is expedient to amend the Prevention of Cruelty to Animals Act, 1890, in its application to the Province of Bombay, the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, for the purposes hereinafter appearing; It is hereby enacted as follows:—

Short title.

1. This Act may be called the Prevention of Cruelty to Animals, the Bombay District Police and the City of Bombay Police (Amendment) Act, 1946.

Repeal of amendments made by Bom. XIII of 1922, Bom. IX of 1923, Bom. XI of 1928 and Bom. III of 1933 in Act XI of 1890.

Bom XIII of 1922. Bom. IX of 1923. Bom. III of 1933. Bom. XI of 1928. XI of 1890. **2.** The Prevention of Cruelty to Animals (Bombay Amendment) Act, 1922, the Prevention of Cruelty to Animals (Bombay Amendment) Act, 1923, and the Prevention of Cruelty to Animals (Bombay Amendment) Act, 1933, and the amendments made by these Acts and by the Bombay Repealing and Amending Act, 1928, in the Prevention of Cruelty to Animals Act, 1890 (hereinafter referred to as the principal Act), are hereby repealed.

Amendment of section 6-B of Act XI of 1890.

3. In section 6-B of the principal Act—

(*i*) in sub-section (*4*), after the words "an animal", the words, brackets and figures "for purposes of examination by the Veterinary Officer referred to in sub-section (*2*) or (*3*), or" shall be inserted;

(*ii*) for sub-section (*5*), the following shall be substituted, namely:—

"(*5*) (*a*) If, in the case of an animal directed to be destroyed or sent to a *pinjrapole* under sub-section (*2*) the owner refuses or neglects to pay the costs which he is liable to pay under sub-section (*4*), such costs shall be recoverable from him as a fine on the order of a Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of showing cause before the Magistrate why such costs should not be recovered;

(*b*) if, in the case of an animal directed to be sent to an infirmary under sub-section (*2*) and certified under sub-section (*3*) to be fit for discharge from the infirmary, the owner refuses or neglects to remove the animal within such time as a Magistrate may prescribe or to pay the costs which he is liable to pay under sub-section (*4*), the Magistrate may direct that the animal be sold and that the proceeds of the sale be applied to the payment of such costs.";

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 57; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.

(*iii*) after sub-section (*6*), the following shall be inserted, namely :—

" (*7*) If the costs payable by the owner under sub-section (*4*) shall exceed the proceeds of such sale, the excess amount to such extent as shall seem reasonable to the Magistrate shall be recoverable from the owner as a fine on the order of the Magistrate, provided that no such order shall be made without the owner being given a reasonable opportunity of showing cause before the Magistrate why such amount should not be recovered".

Amendment of section 11 of Act XI of 1890.

4. In section 11 of the principal Act, after the words " offence to ", the words " abandon or " shall be inserted.

5-6. [*The amendments made by sections 5 and 6 of this Act have been incorporated in the Bombay District Police Act, 1890, and the City of Bombay Police Act, 1902, respectively.*]

THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1946.

CONTENTS.

PREAMBLE.

SECTIONS.

1. Short title
2. Amendment of section 528 of Act V of 1898.
3. Amendment of Schedule II to Act V of 1898.

BOMBAY ACT No. XXX OF 1946.[1]

[THE CODE OF CRIMINAL PROCEDURE (BOMBAY AMENDMENT) ACT, 1946.]

[*4th December 1946.*]

An Act to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay.

V of 1898. WHEREAS it is expedient to amend the Code of Criminal Procedure, 1898, in its application to the Province of Bombay, for the purposes hereinafter appearing; It is hereby enacted as follows :—

Short title. **1.** This Act may be called the Code of Criminal Procedure (Bombay Amendment) Act, 1946.

Amendment of section 528 of Act V of 1898. V of 1898. **2.** In section 528 of the Code of Criminal Procedure, 1898, hereinafter called the said Code, for sub-section (*6*) the following sub-section shall be substituted, namely :—

"(*6*) For the purposes of this section, a Police-patel appointed under section 5 of the Bombay Village Police Act, 1867, shall be a Magistrate subordinate to the District Magistrate".

Bom. VIII of 1867.

Amendment of Schedule II to Act V of 1898. **3.** In Schedule II to the said Code—

(*a*) in the third column in the entry relating to section 161 for the words "Shall not" the word "May" shall be substituted; and

(*b*) in the third column in the entry relating to section 166 for the word "Ditto" the words "Shall not arrest without warrant" shall be substituted.

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[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1946, Pt. V, page 127; for Proceedings in Assembly, *see* Bombay Legislative Assembly Debates, 1946, Vol. IX; and for Proceedings in Council, *see* Bombay Legislative Council Debates, 1946, Vol. X.